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Civil Service Merit System and Related Provisions of the 1996 Charter of the City and County of San Francisco

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ARTICLE II

LEGISLATIVE BRANCH

SEC. 2.100. COMPOSITION AND SALARY. [Effective January 1, 2000]
The Board of Supervisors shall consist of eleven members elected by district. Members of the Board shall be paid a salary of $37,585. (Amended November 1996; June 2, 1998)

ARTICLE IV

EXECUTIVE BRANCH—BOARDS, COMMISSIONS AND DEPARTMENTS

Sec. 4.100. General.
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Sec. 4.104. Boards and Commissions—Rules and Regulations.
Sec. 4.126. Departments—General Provisions.
Sec. 4.132. Executive Branch Reorganization.

SEC. 4.100. GENERAL.

In addition to the office of the Mayor, the executive branch of the City and County shall be composed of departments, appointive boards, commissions and other units of government. To the extent law permits, each appointive board, commission, or other unit of government of the City and County established by state or federal law shall be subject to the provisions of this Article and this Charter.

SEC. 4.101. BOARDS AND COMMISSIONS—COMPOSITION.

Unless otherwise provided in this Charter, the composition of each appointive board, commission or advisory body of any kind established by this Charter or legislative act of the United States of America, the State of California or the Board of Supervisors shall:

1. Be broadly representative of the communities of interest, neighborhoods, and the diversity in ethnicity, race, age, and sexual orientation of the City and County and have representation of both sexes; and

2. Consist of electors of the City and County at all times during the term of their respective offices, unless otherwise specifically provided in this Charter; or in the case of boards, commissions or advisory bodies established by legislative act the position is (a) designated by ordinance for a person under legal voting age, or (b) unless specifically exempt from the provisions, or waived by the appointing officer or entity upon a finding that an elector with specific experience, skills or qualifications willing to serve could not be located within the City and County.

Vacancies on appointive boards, commissions or other units of government shall be filled for the balance of the unexpired term in the manner prescribed by this Charter or ordinance for initial appointments.

Terms of office shall continue as they existed on the effective date of this Charter.

SEC. 4.102. BOARDS AND COMMISSIONS—POWERS AND DUTIES.

Unless otherwise provided in this Charter, each appointive board, commission or other unit of government of the executive branch of the City and County shall:

1. Formulate, evaluate and approve goals, objectives, plans and programs and set policies consistent with the overall objectives of the City and County, as established by the Mayor and the Board of Supervisors through the adoption of City legislation;

2. Develop and keep current an Annual Statement of Purpose outlining its areas of jurisdiction, authorities, purpose and goals, subject to review and approval by the Mayor and the Board of Supervisors;

3. After public hearing, approve applicable departmental budgets or any budget modifications or fund transfers requiring the approval of the Board of Supervisors, subject to the Mayor's final authority to initiate, prepare and submit the annual proposed budget on behalf of the executive branch and the Board of Supervisors' authority under Section 9.103;

4. Recommend to the Mayor for submission to the Board of Supervisors rates, fees and similar charges with respect to appropriate items coming within their respective jurisdictions;

5. Unless otherwise specifically provided, submit to the Mayor at least three qualified applicants, and if rejected, to make additional nominations in the same manner, for the position of department head, subject to appointment by the Mayor;

6. Remove a department head; the Mayor may recommend removal of a department head to the commission, and it shall be the commission's duty to act on the Mayor's recommendation by removing or retaining the department head within 30 days; failure to act on the Mayor's recommendation shall constitute official misconduct;

7. Conduct investigations into any aspect of governmental operations within its jurisdiction through the power of inquiry, and make recommendations to the Mayor or the Board of Supervisors;

8. Exercise such other powers and duties as shall be prescribed by the Board of Supervisors; and

9. Appoint an executive secretary to manage the affairs and operations of the board or commission.

In furtherance of the discharge of its responsibilities, an appointive board, commission or other unit of government may:

10. Hold hearings and take testimony; and

11. Retain temporary counsel for specific purposes, subject to the consent of the Mayor and the City Attorney.

Each board or commission, relative to the affairs of its own department, shall deal with administrative matters solely through the department head or his or her designees, and any dictation, suggestion or interference herein prohibited on the part of any member of a board or commission shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the board or commission's powers of hearing and inquiry as provided in this Charter.

SEC. 4.103. BOARDS AND COMMISSIONS—ANNUAL REPORT.

As of the operative date of this Charter and until this requirement is changed by the Board of Supervisors, each board and commission of the City and County shall be required by ordinance to prepare an annual report describing its activities, and shall file such report with the Mayor and the Clerk of the Board of Supervisors. The Annual Report can be included in the Annual Statement of Purpose as provided for in Section 4.102(2).

SEC. 4.104. BOARDS AND COMMISSIONS—RULES AND REGULATIONS.

Unless otherwise provided in this Charter, each appointive board, commission or other unit of government of the executive branch of the City and County shall:

1. Adopt rules and regulations consistent with this Charter and ordinances of the City and County. No rule or regulation shall be adopted, amended or repealed, without a public hearing. At least ten days' public notice shall be given for such public hearing. All such rules and regulations shall be filed with the Clerk of the Board of Supervisors.

2. Hold meetings open to the public and encourage the participation of interested persons. Except for the actions taken at closed sessions, any action taken at other than a public meeting shall be void. Closed sessions may be held in accordance with applicable state statutes and ordinances of the Board of Supervisors.

3. Keep a record of the proceedings of each regular or special meeting. Such record shall indicate how each member voted on each question. These records, except as may be limited by state law or ordinance, shall be available for public inspection.

The presence of a majority of the members of an appointive board, commission or other unit of government shall constitute a quorum for the transaction of business by such body. Unless otherwise required by this Charter, the affirmative vote of a majority of the members shall be required for the approval of any matter, except that the rules and regulations of the body may provide that, with respect to matters of procedure the body may act by the affirmative vote of a majority of the members present, so long as the members present constitute a quorum. All appointive boards, commissions or other units of government shall act by a majority, two-thirds, three-fourths or other vote of all members. Each member present at a regular or special meeting shall vote "yes" or "no" when a question is put, unless excused from voting by a motion adopted by a majority of the members present.

SEC. 4.126. DEPARTMENTS—GENERAL PROVISIONS.

Except as otherwise provided by this Charter, the responsibilities of each department within the executive branch shall be prescribed by ordinance.

The administration and management of each department within the executive branch shall be the responsibility of the department head. Such officials may:

1. Appoint qualified individuals to fill all positions within their departments which are exempt from the Civil Service provisions of this Charter;

2. Adopt rules and regulations governing matters within the jurisdiction of their respective departments, subject, if applicable, to Section 4.102; and

3. With the approval of the City Administrator, reorganize their respective departments.

No person serving on a board or commission created by state law to discharge a state function specifically within the City and County may be employed as a paid staff member to a board or commission created by this Charter.

SEC. 4.132. EXECUTIVE BRANCH REORGANIZATION.

The Mayor, by issuing a notice to the Board of Supervisors, may reorganize duties and functions between departments and other units of government within the executive branch. Such reorganization shall become effective 30 days after its issuance unless disapproved by the Board of Supervisors during that time.

A proposed reorganization shall provide for the transfer of:

1. Civil service employees who are engaged in the performance of a function or duty transferred to another office, agency or department; such transfer shall not adversely affect status, position, compensation or pension or retirement rights and privileges;

2. Any unexpended balances of appropriations and other funds available for use in connection with any office, agency, department or function affected by the reorganization; any unexpended balance so transferred shall be used only for the purpose for which the appropriation was originally made, except as this Charter otherwise permits.

ARTICLE VIIIA

THE MUNICIPAL TRANSPORTATION AGENCY

Sec. 8A.100. Preamble.
Sec. 8A.101. Municipal Transportation Agency.
Sec. 8A.102. Governance and Duties.
Sec. 8A.104. Personnel and Merit System.

SEC. 8A.100. PREAMBLE.

(a) The Municipal Railway and the Department of Parking and Traffic are vital to the economic and social fabric of San Francisco. San Francisco's transit system should be comparable to the best urban transit systems in the world's major cities. Specifically, San Francisco residents require:

1. Reliable, safe, timely, frequent, and convenient service to all neighborhoods;

2. A reduction in breakdowns, delays, over-crowding, preventable accidents;

3. Clean and comfortable vehicles and stations, operated by competent, courteous, and well trained employees;

4. Support and accommodation of the special transportation needs of the elderly and the disabled;

5. Protection from crime and inappropriate passenger behavior on the Municipal Railway; and

6. Responsive, efficient, and accountable management.

Through this measure, the voters seek to provide the transportation system with the resources, independence and focus necessary to achieve these goals.

The voters find that one of the impediments to achieving these goals in the past has been that responsibility for transportation has been diffused throughout City government. Accordingly, this Article places within the Municipal Transportation Agency the powers and duties relating to transit now vested in other departments, boards, and commissions of the City and County. This Article further requires that, to the extent other City and County agencies provide services to the Municipal Transportation Agency, those departments must give the highest priority to the delivery of such services.

At the same time, this Article is intended to ensure sufficient oversight of the Municipal Transportation Agency by, among other things, preserving the role of the City's Controller as to financial matters, the City Attorney as to legal matters, and the Civil Service Commission, as to merit system issues. In addition, this Article requires that outside audits be performed to ensure that required service levels are obtained with a minimum of waste.

This Article also requires that the Municipal Transportation Agency develop clear, measured performance goals, and publicize both its goals and its performance under those goals. As the workers of the Municipal Transportation Agency are vital to the improvements the voters seek, this Article authorizes

incentives for excellence, and requires accountability—for both managers and employees— when performance falls short.

Finally, this Article is intended to strengthen the Municipal Transportation Agency's authority to: 1) manage its employees; 2) establish efficient and economical work rules and work practices that maximize the Agency's responsiveness to public, needs; and 3) protect the Railway's right to select, train, promote, demote, discipline, layoff and terminate employees, managers, and supervisors based upon the highest standards of customer service, efficiency and competency.

(b) The Department of Parking and Traffic performs functions vital to the operation of the Municipal Railway. Congestion on city streets causes delays in transit operations. Therefore, the Municipal Transportation Agency must ensure that transit vehicles move through City streets safely and efficiently.

In addition, the residents of San Francisco require that the Department of Parking and Traffic: 1) value and protect pedestrians and bicyclists; 2) reduce congestion and air pollution through efficient use of the streets; and 3) protect the City's economic health by giving priority to commercial deliveries and access to local businesses.

(c) This Article shall be interpreted and applied in conformance with the above goals. (Added November 1999)

SEC. 8A.101. MUNICIPAL TRANSPORTATION AGENCY.

(a) There shall be a Municipal Transportation Agency. The Agency shall include a Board of Directors and a Director of Transportation. The Agency shall include the Municipal Railway and the Department of Parking and Traffic, as well as any other departments, bureaus or operating divisions hereafter created or placed under the Agency. There shall also be a Citizens Advisory Committee to assist the Agency.

(b) Effective March 1, 2000, the Agency shall succeed to and assume all powers and responsibilities of the Public Transportation Commission.

(c) Effective July 1, 2000, the Municipal Railway shall become a department of the Agency and the full provisions of this Article shall be applicable.

(d) The Department of Parking and Traffic, upon its incorporation into the Agency pursuant to Section 8A.112, shall become a separate department of the Agency.

(e) The Board of Supervisors shall have the power, by ordinance, to abolish the Taxi Commission created in Section 4.133, and to transfer the powers and duties of that commission to the Agency's Board of Directors.

(f) Any transfer of functions occurring as a result of the above provisions shall not adversely affect the status, position, compensation, or pension or retirement rights and privileges of any civil service employees who engaged in the performance of a function or duty transferred to another office, agency, or department pursuant to this measure.

(g) Except as expressly provided in this Article, the Agency shall comply with all of the restrictions and requirements imposed by the ordinances of the City and County, including ordinances prohibiting discrimination of any kind in employment

and contracting, such as Administrative Code Chapters 12B et seq., as amended from time to time. The Agency shall be solely responsible for the administration and enforcement of such requirements.

(h) The Agency may contract with existing City and County departments to carry out any of its powers and duties. Any such contract shall establish performance standards for the department providing the services to the Agency, including measurable standards for the quality, timeliness, and cost of the services provided. All City and County departments must give the highest priority to the delivery of such services to the Agency.

(i) The Agency may not exercise any powers and duties of the Controller or the City Attorney and shall contract with the Controller and the City Attorney for the exercise of such powers and duties. (Added November 1999)

SEC. 8A.102. GOVERNANCE AND DUTIES.

(a) The Agency shall be governed by a board of seven directors appointed by the Mayor and confirmed after public hearing by the Board of Supervisors. All initial appointments must be made by the Mayor and submitted to the Board of Supervisors for confirmation no later than February 1, 2000. The Board of Supervisors shall act on those initial appointments no later than March 1, 2000 or those appointments shall be deemed confirmed.

At least four of the directors must be regular riders of the Municipal Railway, and must continue to be regular riders during their terms. The directors must possess significant knowledge of, or professional experience in, one or more of the fields of government, finance, or labor relations. At least two of the directors must possess significant knowledge of, or professional experience in, the field of public transportation. During their terms, all directors shall be required to ride the Municipal Railway on the average once a week.

Directors shall serve four-year terms, provided, however, that two of the initial appointees shall serve for terms ending March 1, 2004, two for terms ending March 1, 2003, two for terms ending March 1, 2002, February 2000 S-3 and one for a term ending March 1, 2001. Initial terms shall be designated by the Mayor. No person may serve more than three terms as a director. A director may be removed only for cause pursuant to Article XV. The directors shall annually elect a chair. The chair shall serve as chair at the pleasure of the directors. Directors shall receive reasonable compensation for attending meetings of the Agency which shall not exceed the average of the two highest compensations paid to the members of any board or commission with authority over a transit system in the nine Bay Area counties.

(b) The Agency shall:

1. Have exclusive charge of the construction, management, supervision, maintenance, extension, operation, use, and control of all property, as well as the real, personal, and financial assets of the Municipal Railway; and have exclusive authority over contracting, leasing, and purchasing by the Municipal Railway, provided that any Agency contract for outside services shall be subject to Charter Sections 10.104(12) and 10.104(15). Ownership of any of the real property of the City and County shall not be transferred to any private entity pursuant to any such contract;

2. Have the sole power and authority to enter into such arrangements and agreements for the joint, coordinated, or common use with any other public entity owning or having jurisdiction over rights-of-way, tracks, structures, subways, tunnels, stations, terminals, depots, maintenance facilities, and transit electrical power facilities;

3. Have the sole power and authority to make such arrangements as it deems proper to provide for the exchange of transfer privileges, and through-ticketing arrangements, and such arrangements shall not constitute a fare change subject to the requirements of Sections 8A.106 and 8A.108;

4. Have the authority to arrange with other transit agencies for bulk fare purchases, provided that if passenger fares increase as a result of such purchases, the increase shall be subject to review by the Board of Supervisors pursuant to Sections 8A.106 and 8A.108;

5. Notwithstanding Section 2.109, and except, as provided in Sections 8A.106 and 8A.108, have exclusive authority to fix the fares charged by the Municipal Railway and all other rates, fees, and charges for services provided by the Agency;

6. Have the authority to conduct investigations into any matter within its jurisdiction through the power of inquiry, including the power to hold public hearings and take testimony, and to take such action as may be necessary to act upon its findings; and

7. Exercise such other powers and duties as shall be prescribed by ordinance of the Board of Supervisors.

(c) The Agency's board of directors shall:

1. Appoint a director of transportation, who shall serve at the pleasure of the board. The director shall be employed pursuant to an individual contract. His or her compensation shall be comparable to the compensation of the chief executive officers of the public transportation systems in the United States which the directors, after an independent survey, determine most closely resemble the Agency in size, mission, and complexity. In addition, the Agency shall provide an incentive compensation bonus plan for the director of transportation based upon the Agency's achievement of the milestones adopted pursuant to Section 8A.103.

2. Appoint an executive secretary who shall be responsible for administering the affairs of the directors and who shall serve at the pleasure of the board.

(d) The director of transportation shall appoint all subordinate personnel of the Agency, including a deputy director for the Municipal Railway, and, upon its incorporation into the Agency, a deputy director for Parking and Traffic. The deputy directors shall serve at the pleasure of the director of transportation. The director of transportation may serve as the deputy director for the Municipal Railway, but shall not be entitled to any greater compensation or benefits on that basis.

(e) Upon recommendation of the city attorney and the approval of the board of directors, the city attorney may compromise, settle, or dismiss any litigation, legal proceedings, claims, demands or grievances which may be pending for or on behalf of, or against the Agency relative to any matter or property solely under the Agency's jurisdiction. Unlitigated claims or demands against the Agency shall be handled as set forth in Charter Section 6.102. Any payment pursuant to the

compromise, settlement, or dismissal of such litigation, legal proceedings, claims, demands, or grievances, unless otherwise specified by the Board of Supervisors, shall be made from the Municipal Transportation Fund.

(f) The Agency's board of directors, and its individual members, shall deal with administrative matters solely through the director of transportation or his or her designees. Any dictation, suggestion, or interference by a director in the administrative affairs of the Agency, other than through the director of transportation or his or her designees, shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the directors' powers of hearing and inquiry as provided in this Section.

(g) Except to the extent otherwise provided in this Article, the Agency shall be subject to the provisions of this Charter applicable to boards, commissions, and departments of the City and County, including Sections 2.114, 3.105, 4.101, 4.103, 4.104, 4.113, 9.118, 16.100, and A8.346. Sections 4.102, 4.126, and 4.132 shall not be applicable to the Agency. (Added November 1999)

SEC. 8A.104. PERSONNEL AND MERIT SYSTEM.

(a) The Agency shall establish its own personnel/labor relations office. The director of transportation shall appoint a personnel/labor relations manager, who shall serve at the pleasure of the director of transportation.

(b) Except as otherwise provided in this Section, the Agency shall be governed by the rules of the civil service system administered by the City and appeals provided in civil service rules shall be heard by the City's Civil Service Commission. Unless otherwise agreed by the Agency and affected employee organizations, appeals to the Civil Service Commission shall include only those matters within the jurisdiction of the Civil Service Commission which establish, implement, and regulate the civil service merit system as listed in Section A8.409-3.

(c) Effective July 1, 2000, except for the administration of health services, the Agency shall assume all powers and duties vested in the Department of Human Resources and the Director of Human Resources under Articles X and XI of this Charter in connection with job classifications within the Municipal Railway performing "service-critical" functions. Except for the matters set forth in subsection (f), the Department of Human Resources and the Director of Human Resources shall maintain all powers and duties under Articles X and XI as to all other Agency employees.

(d) On or before April 15, 2000, the Agency shall designate "service-critical" classifications and functions for all existing classifications used by the Municipal Railway; provided, however, that employees in classifications designated as "service-critical" shall continue to be covered by any Citywide collective bargaining agreement covering their classifications until the expiration of that agreement.

(e) For purposes of this Article, "service-critical" functions are:

1. Operating a transit vehicle, whether or not in revenue service;
2. Controlling dispatch of, or movement of, or access to, a transit vehicle;
3. Maintaining a transit vehicle or equipment used in transit service, including both preventive maintenance and overhaul of equipment and systems, including system-related infrastructure;

4. Regularly providing information services to the public or handling complaints; and

5. Supervising or managing employees performing functions enumerated above.

The Agency shall consult with affected employee organizations before designating particular job classifications as performing "service-critical" functions. If an employee organization disagrees with the Agency's designation of a particular job classification as "service-critical" pursuant to the above standards, the organization may, within seven days of the Agency's decision, request immediate arbitration. The arbitrator shall be chosen pursuant to the procedures for the selection of arbitrators contained in the memorandum of understanding of the affected employee organization. The arbitrator shall determine only whether the Agency's designation is reasonable based on the above standards. The arbitrator's decision shall be final and binding.

The Agency may designate functions other than those listed above, and the job classifications performing those additional functions, as "service-critical," subject to the consultation and arbitration provisions of this Section. In deciding a dispute over such a designation, the arbitrator shall decide whether the job functions of the designated classes relate directly to achievement of the goals and milestones adopted pursuant to Section 8A.103 and are comparable to the above categories in the extent to which they are critical to service.

(f) In addition, the Agency shall, with respect to all Agency employees, succeed to the powers and duties of the Director of Human Resources under Article X to review and resolve allegations of discrimination, as defined in Article XVII, against employees or job applicants, or allegations of nepotism or other prohibited forms of favoritism; provided, however, that the Agency's resolution of allegations of discrimination must be approved by the City's Director of Human Resources. To the extent resolution of a discrimination complaint or request for accommodation involves matters or employees beyond the Agency's jurisdiction, the Agency shall coordinate with and be subject to applicable determinations of the Director of Human Resources.

(g) The Agency shall be responsible for creating and, as appropriate, modifying Municipal Railway bargaining units for classifications designated by the Agency as "service-critical" and shall establish policies and procedures pursuant to Government Code section 3507 and .3507.1 for creation and modification of such bargaining units. When the Agency creates or modifies a bargaining unit, employees in existing classifications placed in such bargaining unit shall continue to be represented by their current employee organizations.

(h) The Agency may create new classifications of employees doing specialized work for the Agency. Such classifications shall be subject to the civil service provisions of the Charter unless exempted pursuant to Section 10.104 or subsection (i).

(i) The Agency may create new classifications and positions in those classifications exempt from the civil service system for managerial employees in addition to those exempt positions provided in Section 10.104; provided, however, that the total number of such exempt new positions shall not exceed 1.5 percent of

the Agency's total workforce, exclusive of the exempt positions provided in Section 10.104. This provision shall not be utilized to eliminate personnel holding existing permanent civil service managerial positions on November 2, 1999.

Persons serving in exempt managerial positions shall serve at the pleasure of the director of transportation. Such exempt management employees, to the extent they request placement in a bargaining unit, shall not be placed in the same bargaining units as non-exempt employees of the Agency.

(j) The Civil Service Commission shall annually review both exempt and non-exempt classifications of the Agency to ensure compliance with the provisions of subsections (h) and (i).

(k) Upon the expiration of current labor contracts, and except for retirement benefits, the wages, hours, working conditions, and benefits of the employees in classifications within the Municipal Railway designated by the Agency as "service-critical" shall be fixed by the Agency after meeting and conferring as required by the laws of the State of California and this Charter, including Sections A8.346, A8.404 and A8.409. These agreements shall utilize, and shall not alter or interfere with, the health plans established by the City's Health Service Board; provided, however, that the Agency may contribute toward defraying the cost of employees' health premiums. For any job classification that exists both as a "service-critical" classification in the Municipal Railway and elsewhere in City service, the base wage rate negotiated by the Agency for that classification shall not be less than the wage rate set in the Citywide memorandum of understanding for that classification.

(l) Notwithstanding subsection (k), the Agency may, in its sole discretion, utilize the City's. collective bargaining agreements with any employee organization representing less than 10 percent of the Municipal Railway's workforce.

(m) Notwithstanding any limitations on compensation contained in Section A8.404, and in addition to the base pay established in collective bargaining agreements, all agreements negotiated by the Agency relating to compensation for Municipal Railway managers and employees in classifications designated by the Agency as "service-critical" shall provide incentive bonuses based upon the achievement of the service standards in Section 8A.103(c) and other standards and milestones adopted pursuant to Section 8A.103. Such agreements may provide for additional incentives based on other standards established by the Agency, including incentives to improve attendance. The Agency shall also establish a program that provides incentive bonuses for all managers, including all managers exempt from the civil service system, based on the achievement of these standards and milestones.

(n) For employees whose wages, hours and terms and conditions of employment are set by the Agency pursuant to Sections A8.404 or A8.409 et seq., the Agency shall exercise all powers of the City and County, the Board of Supervisors, the Mayor, and the Director of Human Resources under those sections. For employees covered by Section A8.409 et seq., the mediation/arbitration board set forth in Section A8.409-4 shall consider the following additional factors when making a determination in any impasse proceeding involving the Agency: the interests and welfare of transit riders, residents, and other members of the public; and the Agency's ability to meet the costs of the decision of the

arbitration board without materially reducing service. The Agency shall perform the functions of the Civil Service Commission with respect to certification of the average of the two highest wage schedules for transit operators in comparable jurisdictions pursuant to Section A8.404(a), and conduct any actuarial study necessary to implement Section A8.404(f).

(o) The voters find that unscheduled employee absences adversely affect customer service. Accordingly, not later than January 1, 2001, the agency shall create a comprehensive plan for the reduction of unscheduled absences. In addition, the Agency shall take all legally permitted steps to eliminate unexcused absences. The Agency shall have no authority to approve any memorandum of understanding or other binding agreement which restricts the authority of the Agency to administer appropriate discipline for unexcused absences.

(p) Before adopting any tentative agreement reached as a result of negotiations, mediation or arbitration, the Agency shall, at a duly noticed public meeting, disclose in writing the contents of such tentative agreement, a detailed analysis of the proposed agreement, a comparison of the differences between the agreement reached and the prior agreement, and an analysis of all costs for each year of the term of such agreement. Such tentative agreement between the Agency and employee organization shall not be approved by the Agency until 30 days after the above disclosures have been made. (Added November 1999)

ARTICLE X

PERSONNEL ADMINISTRATION

Sec. 10.100. Civil Service Commission.
Sec. 10.101. General Powers and Duties.
Sec. 10.102. Department of Human Resources.
Sec. 10.103. Human Resources Director.
Sec. 10.104. Exclusions from Civil Service Appointment.
Sec. 10.105. Provisional Appointments.

SEC. 10.100. CIVIL SERVICE COMMISSION.

There is hereby established a Civil Service Commission which is charged with the duty of providing qualified persons for appointment to the service of the City and County.

The Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for six-year terms. Not less than two members of the Commission shall be women.

The persons so appointed shall, before taking office, make under oath and file in the office of the County Clerk the following declaration: "I am opposed to appointments to the public service as a reward for political activity and will execute the office of Civil Service Commissioner in the spirit of this declaration."

A commissioner may be removed only upon charges preferred in the same manner as in this Charter provided for elective officers.

The regular meetings of the Commission shall be open to the public and held at such a time as will give the general public and employees of the City and County adequate time within which to appear before the Commission after the regular daily working hours of 8:00 a.m. to 5:00 p.m. Such person or persons shall be given an opportunity to be heard by the Commission before final action is taken in any case involving such person or persons.

SEC. 10.101. GENERAL POWERS AND DUTIES.

The Civil Service Commission shall adopt rules, policies and procedures to carry out the civil service merit system provisions of this charter and, except as otherwise provided in this Charter, such rules shall govern applications; examinations; eligibility; duration of eligible lists; certification of eligibles; leaves of absence for employees and officers; appointments; promotions; transfers; resignations; lay-offs or reduction in force, both permanent and temporary, due to lack of work or funds, retrenchment or completion of work; the designation and filling of positions, as exempt, temporary, provisional, part-time, seasonal or permanent; status and status rights; probationary status and the administration of probationary periods, except duration; pre-employment and fitness for duty medical examinations, except for the conditions under which referrals for fitness for duty examinations will be made, and the imposition of new requirements; classification; conflict of interest; and such other matters as are not in conflict with this Charter;

provided, however, that the minimum rule for the certification of eligibles shall be the Rule of Three Scores, and provided further that rules for leave due to illness or disability shall be approved by the Board of Supervisors. Changes to the rules may be proposed by members of the Commission, the Executive Assistant or the Human Resources Director and approved or rejected by the Commission. The Commission may, upon ten days' notice, make changes in the rules, which changes shall thereupon be printed and be in force; provided that no such changes in rules shall affect a case pending before the Commission.

The Commission shall have power to institute and prosecute legal proceedings for violations of any civil service merit system or Department of Human Resources provisions of this Charter.

The Commission shall establish an inspection service for the purpose of investigating the conduct or an action of appointees in all positions and of securing records of service for promotion and other purposes. All departments shall cooperate with the Commission in making its investigations and any person hindering the Commission or its agents shall be subject to suspension.

The Commission shall by rule establish procedures to review and resolve allegations of discrimination as defined in Article XVII of this Charter or otherwise prohibited nepotism or favoritism appealed to it pursuant to this section. The determination reached under Commission procedures shall be final and shall forthwith be enforced by every employee and officer.

The Commission shall have the power to inquire into the operation of the civil service merit system to ensure compliance with merit principles and rules established by the Commission. After such inquiry, the Commission may direct the Human Resources Director to take such action as the Commission believes necessary to carry out the civil service provisions of this Charter. In any hearing conducted by the Commission or by any hearing officer it appoints pursuant to this section, the Commission or the hearing officer shall have the power to subpoena and require the attendance of witnesses and the production of records.

The Commission may require periodic reports from the Human Resources Director in a manner and form which it shall prescribe.

The Commission may hear appeals from an action of the Human Resources Director in accordance with its rules, including but not limited to:

1. Allegations of discrimination as defined in Article XVII of this Charter. Notwithstanding any other provisions of this Charter except the fiscal provisions hereof, the decision of the Commission regarding allegations of discrimination shall forthwith be enforced by every officer and employee;
2. Allegations of fraud; and
3. Allegations of conflict of interest.

No action by the Human Resources Director which is the subject of any appeal shall be stayed during the appeal process except by a majority vote of the Civil Service Commission.

The Commission shall have the power and it shall be its duty to appoint an executive assistant to be the administrative head of the affairs under its control who shall serve at its pleasure; provided, however, that any person who has Civil Service status in the position of executive assistant to the Commission on the effective date

of this section as amended shall continue to have Civil Service status in the position of executive assistant under the Civil Service provisions of this Charter. The executive assistant shall periodically report to the Commission on operation of the civil service merit system and may make recommendations to the Civil Service Commission regarding its rules, policies and procedures.

SEC. 10.102. DEPARTMENT OF HUMAN RESOURCES.

The Department of Human Resources shall consist of a Human Resources Director and such employees as may be necessary to carry out its functions and duties.

Pursuant to and in accordance with policies, rules and procedures of the Civil Services Commission governing the merit system, the Department of Human Resources shall be the personnel department for the City and County and shall determine appointments on the basis of merit and fitness as shown by appropriate test and, except as specifically set forth in this Charter, shall perform all tests, duties and functions previously performed by the Civil Service Commission, including but not limited to authority to recruit, select, certify, appoint, train, evaluate, promote career development, classify positions, administer salaries, administer employee discipline, discharge and other related personnel activities in order to maintain an effective and responsive work force.

The Department of Human Resources shall be responsible for coordination of all state, local and federal health and safety mandates, programs and requirements relating to employees including but not limited to industrial hygiene programs, health and safety programs, OSHA compliance and return to work programs. Department heads shall coordinate such activities of employees under their jurisdiction with the Human Resources Director.

The Department of Human Resources shall be responsible for policy, management and administration of the worker's compensation program and shall review and determine all applications for disability leave.

Subject to Section 11.100 hereof, the Department of Human Resources shall be responsible for management and administration of all labor relations of the City and County.

The Department of Human Resources shall be responsible for management and administration of all health services of employees. The transfer of such power and control to the Department of Human Resources shall occur no later than October 1, 1995.

Except for the purpose of inquiry, the Mayor shall deal with the administration of the civil service merit system solely through the Human Resources Director and the Civil Service Commission or their designees. The Mayor shall not dictate, suggest or interfere with the merit system activities of the Civil Service Commission or Human Resources Department. Administrative matters shall be dealt with only in the manner provided by this Charter, and any dictation, suggestion or interference herein prohibited shall constitute official misconduct; provided that nothing herein contained shall restrict the power of hearing and inquiry as provided in this Charter.

SEC. 10.103. HUMAN RESOURCES DIRECTOR.

A Human Resources Director shall be selected by the Mayor from candidates nominated by the Civil Service Commission and confirmed by vote of the Board of Supervisors. The Human Resources Director shall possess not less than ten years professional experience in personnel, human resources management, labor or employee relations at least five years of which must be in federal, state or local governmental personnel management and such other qualifications as determined by the Commission. Notwithstanding any other provisions of this Charter, the Human Resources Director shall be appointed by and serve at the pleasure of the Mayor, provided that the Mayor's removal of the Human Resources Director may be rejected by a four-fifths vote of the Commission.

Failure of the Commission to act within 30 days shall be deemed approval of the Mayor's action. The nominee of the Mayor may be appointed acting Human Resources Director pending confirmation. The person so appointed shall, before taking office, make under oath and file in the Office of the County Clerk the following declaration: "I am opposed to appointments to the public service as a reward for political activity and will execute the Office of Human Resources Director in the spirit of this declaration."

The appointment of the Director of the Human Resources Department as of the effective date of this Charter shall be effective until July 1, 1996, after which time he may be reappointed to the position in accordance with the appointment method provided herein.

The Human Resources Director shall have full power to administer the affairs of the Department. He or she shall have all powers of a department head and may appoint a Director of Employee Relations, a Health Services administrator, an executive assistant and one confidential secretary, each of whom shall be exempt from the civil service provisions of this Charter, to assist in the administration and management of the functions of the department.

The Human Resources Director shall review and resolve allegations of discrimination as defined in Article XVII of this Charter against employees or applicants, or otherwise prohibited nepotism or favoritism. Notwithstanding any other provisions of this Charter except the fiscal provisions hereof, the decision of the Human Resources Director shall forthwith be enforced by every employee and officer, unless the decision is appealed to the Commission in accordance with Section 10.101.

The Human Resources Director shall investigate all employee complaints concerning job-related conduct of City and County employees and shall promptly report to the source of the complaint.

The Human Resources Director shall promote effective and efficient management through personnel programs that encourage productivity, job satisfaction and exemplary performance.

The Human Resources Director shall provide a procedure for resolution of employee disputes which shall be consistent with other provisions of this Charter and shall be utilized by all department heads and appointing officers in the absence of an applicable grievance procedure in a binding labor agreement.

The Human Resources Director shall verify that all persons whose names appear on City and County payrolls have been legally appointed to or employed in positions legally established under this Charter. The Controller shall not draw his or her warrant for any claim for salary, wages or compensation which has been disapproved by the Human Resources Director.

Consistent with the foregoing and other applicable provisions of this Charter, the Human Resources Director may delegate to the various appointing officers appropriate personnel responsibilities, and shall consult with appointing officers with respect to Civil Service Commission rules affecting their operations.

The Human Resources Director shall establish a system of job classification. The decision of the Human Resources Director regarding classification matters shall be final unless appealed to the Commission; provided, however, that nothing herein shall be construed to alter the scope of bargaining set forth in the following sections of the 1932 Charter: 8.400, 8.403, 8.404, 8.405, 8.407-1, 8.409 et seq. and 8.590-1 et seq.

The allocation or reallocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position. No person shall hold a position outside of the classification to which the person has been appointed, provided that every employee of any department or office shall discharge any of the duties pertaining to such department or office to which the employee's department head may temporarily assign the employee.

SEC. 10.104. EXCLUSIONS FROM CIVIL SERVICE APPOINTMENT.

All employees of the City and County shall be appointed through competitive examination unless exempted by this Charter. The following positions shall be exempt from competitive civil service selection, appointment and removal procedures, and the person serving in the position shall serve at the pleasure of the appointing authority:

1. All supervisory and policy-level positions within the office of the Mayor and the office of the City Administrator;
2. All elected officers of the City and County and their chief deputies or chief assistants;
3. All members of commissions, boards and advisory committees;
4. Not more than one commission secretary for each commission or board;
5. All heads of agencies and departments, unless otherwise provided for herein;
6. All non-uniformed deputy heads of departments;
7. All uniformed deputy heads of departments, police commanders and Fire Chiefs aides;
8. Not move than one confidential secretary and executive assistant in each department and agency;
9. The Clerk of the Board of Supervisors, legislative analyst and assistants to the members of the Board of Supervisors.
10. All paraprofessional aides of the Unified School District and teaching instructional aides of the Community College District;

11. Persons employed in positions outside the City and County upon construction work being performed by the City and County when such positions are exempted from the classified civil service by an order of the civil service commission;

12. Persons employed in positions in any department for expert professional temporary services, when such positions are exempted from said classified civil service for a specified period of said temporary service by order of the civil service commission.

The proportion of full-time employees in the above exempt categories to the total number of civil service employees of the City and County shall not be greater than such proportion as existed on July 1, 1994, unless modified by Civil Service Commission rule, approved by the Board of Supervisors.

13. All attorneys, including an attorney to the Sheriff and an attorney for the Tax Collector, City Attorney's and District Attorney's investigators, hospital chief administrators, physicians and dentists serving in their professional capacity (except those physicians and dentists whose duties are significantly administrative or supervisory);

14. The law librarian, assistant law librarians, bookbinder of the Law Library, purchaser, curators, Assistant Sheriff, Deputy Port Director, Chief of the Bureau of Maritime Affairs, Director of Administration and Finance of the Port, Port Sales Manager, Port Traffic Manager, Chief Wharfinger, Port Commercial Property Manager, Actuary of the Employee's Retirement System, Director of the Zoo, Chief Veterinarian of the Zoo, Director of the Arboretum and Botanical Garden, Director of Employee Relations, Health Service Administrator, Executive Assistant to the Human Services Director, and any other positions designated as exempt under the 1932 Charter, as amended;

15. Positions determined by the Controller and approved annually by the Board of Supervisors to be positions where the work or services can be practically performed under private contract at a lesser cost than similar work performed by employees of the City and County, except where such work or services are required to be performed by officers or employees of the City and County under the provisions of this Charter or other applicable law.

In addition, with the approval of the Civil Service Commission, exempt employees shall include:

16. Temporary and seasonal appointments not to exceed the equivalent of half time during any fiscal year, except that such positions may be filled through regular civil service procedures;

17. Appointments, which shall not exceed two years and shall not be renewable, as substitutes for civil service employees on leave, except that such positions may be filled through regular Civil Service procedures;

18. Appointments, which shall not exceed three years and shall not be renewable, for special projects and professional services with limited term funding, except that such positions may be filled through regular civil service procedures; and

19. Entry level positions designated by an appointing officer with approval of the Civil Service Commission for persons who met minimum qualifications and are certified as blind or severely disabled; persons so appointed whose job performance is rated satisfactory by their appointing officer shall after one year of continuous service acquire Civil Service status.

SEC. 10.105. PROVISIONAL APPOINTMENTS.

Provisional appointments for classified positions for which no eligible list exists shall not exceed three years. Provisional appointments may only be renewed with the approval of the Board of Supervisors and upon certification by the Human Resources Director that for reasons beyond his or her control the Department has been unable to conduct examinations for these positions.

ARTICLE XI

EMPLOYER-EMPLOYEE RELATIONS SYSTEM

Sec. 11.100. General.
Sec. 11.101. Employee Relations Office.

SEC. 11.100. GENERAL.

Subject to this Charter and consistent with state law, the Mayor through the Human Resources Director or his/her designee and in consultation with the Board of Supervisors shall be responsible for meeting and conferring with employees or their recognized employee organizations regarding salaries, working conditions, benefits and other terms and conditions of employment to be embodied in memoranda of understanding. The Human Resources Director shall assume day-to-day administration of all labor relations responsibilities previously vested in the Mayor or Board of Supervisors.

The Human Resources Director shall submit proposed memoranda of understanding including, where applicable, schedules of compensation, benefits and working conditions to the Mayor, who upon approval shall forward the proposed memoranda of understanding to the Board of Supervisors for determination by a majority vote. The Board of Supervisors shall have the power to accept or reject such memoranda of understanding. It shall be the duty of the Board of Supervisors, upon approval of any such memoranda of understanding to enact appropriate ordinances authorizing payment of any compensation or benefits or other terms and conditions of employment so approved.

Nothing in this section shall supersede any dates specified in this Charter for fixing compensation, except that the Board of Supervisors by motion may extend up to 30 days the date for final adoption of ordinances approving salary and benefits pursuant to such sections. Should the Board of Supervisors reject any memorandum of understanding and/or schedule of compensation and benefits, the Board of Supervisors shall by motion simultaneously extend by 60 days the date for final adoption of ordinances approving salary, benefits and/or working conditions pursuant to such sections.

SEC. 11.101. EMPLOYEE RELATIONS OFFICE.

The Human Resources Director shall:

1. Represent the City and County and/or its departments in the implementation of those provisions of Title I, Division 4, Chapter 10 of the Government Code applicable to the City and County, subject to the Mayor's authority under Charter Section 11.100;

2. Coordinate the meet and confer process between the City and County, its employees and/or their designated representatives;

3. Negotiate and administer memoranda of understanding; and

4. Perform related duties necessary to administer the employee relations functions of the City and County.

ARTICLE XV

ETHICS

Sec. 15.103. Conflict of Interest.
Sec. 15.104. Penalty for Official Misconduct.
Sec. 15.105. Suspension and Removal.

SEC. 15.103. CONFLICT OF INTEREST.

All officers and employees of the City and County shall be subject to all state laws and City ordinances proscribing conflicts of interest and incompatible activities, as well as the provisions of Section C8.105. Any violation of such laws shall be official misconduct and shall be a basis for discipline and/or removal, in addition to any other penalties prescribed by law.

SEC. 15.104. PENALTY FOR OFFICIAL MISCONDUCT.

Any person found guilty of official misconduct shall forfeit his or her office, and shall be forever after disbarred and disqualified from being elected, appointed or employed in the service of the City and County.

SEC. 15.105. SUSPENSION AND REMOVAL.

Any elective officer, and any member of the Airport Commission, Asian Art Commission, Civil Service Commission, Commission on the Status of Women, Ethics Commission, Health Commission, Human Services Commission, Juvenile Probation Commission, Public Utilities Commission, Recreation and Park Commission, Fine Arts Museums Board of Trustees, War Memorial and Performing Art Center Board of Trustees, Board of Education or Community College Board may be suspended by the Mayor and removed by the Board of Supervisors for official misconduct, and the Mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. On such suspension, the Mayor shall immediately notify the Ethics Commission and Board of Supervisors thereof in writing and the cause thereof, and shall present written charges against such suspended officer to the Ethics Commission and Board of Supervisors at or prior to their next regular meetings following such suspension, and shall immediately furnish a copy of the same to such officer, who shall have the right to appear with counsel before the Ethics Commission in his or her defense. Hearing by the Ethics Commission shall be held not less than five days after the filing of written charges. After the hearing, the Ethics Commission shall transmit the full record of the hearing to the Board of Supervisors with a recommendation as to whether the charges should be sustained. If, after reviewing the complete record, the charges are sustained by not less than a three-fourths vote of all members of the Board of Supervisors, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the Board of Supervisors within 30 days after the receipt of the record from the Ethics Commission, the suspended officer shall thereby be reinstated.

Members of the Building Inspection Commission appointed by the Mayor may be suspended and removed pursuant to the provisions set forth above. Members of the Commission appointed by the President of the Board of Supervisors may be suspended and removed pursuant to the same procedures, except that the President of the Board shall act in place of the Mayor.

The Mayor must immediately remove from office any elective official convicted of a crime involving moral turpitude, and failure of the Mayor so to act shall constitute official misconduct on his or her part. Any appointee of the Mayor or the Board of Supervisors guilty of official misconduct or convicted of crime involving moral turpitude must be removed by the Mayor or the Board of Supervisors, as the case may be, and failure of the Mayor or any Supervisor to take such action shall constitute official misconduct on their part.

ARTICLE XVI

MISCELLANEOUS PROVISIONS

Sec. 16.116. Appendix A—Employment Provisions.
Sec. 16.118. Appendix C—Ethics Provisions.

SEC. 16.116. APPENDIX A—EMPLOYMENT PROVISIONS.

The following sections of the Charter of 1932, as amended, shall remain in effect as a part of this Charter as "Appendix A—Employment Provisions," except that in instance of conflict or inconsistency between these sections of the Charter of 1932 and the body of this Charter, this Charter shall prevail, and subject to the following limitations and amendments:

1. All references to sections of "the Charter" or "this Charter" shall be construed to refer to the Charter of 1932, as defined above;

2. All definitions or descriptions included through such references shall remain in force, unless in conflict or inconsistent with definitions or descriptions in this Charter, or unless amended by the Board of Supervisors; and

3. Effective upon adoption of this Charter, references to "wife," "surviving spouse," "widow" or "widower" shall be construed to include "spouse," or "surviving spouse."

The following sections from the Charter of 1932, as amended, shall be included in Appendix A with full force and effect, and each shall be designated with a prefix "A":

7.204	Contractors' Working Conditions
8.329	Certification of Eligibles
8.341	Removal or Discharge of Permanent, Non-Probationary Employees
8.342—8.344	Disciplinary Suspensions; Police and Fire Department Suspensions; Exoneration of Charges
8.345—8.346	Disciplinary Action-Strikes
8.364	Catastrophic Sick Leave
8.400—8.406	Salaries and Wages for Teachers, Muni, Police, Fire and Miscellaneous Employees
8.409—8.409-6	Collective Bargaining
8.410—8.411	Expenses
8.420—8.429	Health Service System Benefits
8.430 [1st ¶]	"Medical Care" Defined
8.431—8.432	Health Service System Benefits
8.440—8.441	Vacations
8.450—8.452	Hours and Tours of Duty
8.500—8.517	Retirement System
8.518—8.588-15	Retirement System
8.590-1—8.590-7	Collective Bargaining for Fire, Police and Airport Police

The provisions of Appendix A may be amended only pursuant to the provisions of state law governing charter amendments.

SEC. 16.118. APPENDIX C—ETHICS PROVISIONS.

The following sections of the Charter of 1932, as amended, shall be included in Appendix C with full force and effect, and each shall be designated with a prefix "C":

3.699-10—3.699-16	Ethics Commission Procedures
8.105	Conflict of Interest and Other Prohibited Practices

The provisions of Appendix C may be amended only pursuant to the provisions of state law governing charter amendments.

ARTICLE XVIII

TRANSITION PROVISIONS

Sec. 18.100. Effective Date of this Article XVIII.
Sec. 18.101. Operative Date of this Charter; Effect of Enactment on Existing Law.
Sec. 18.103. Transfer of 1932 Charter Sections to Ordinance and Initiative Ordinances.
Sec. 18.104. Transfer of Functions, Powers and Duties.
Sec. 18.105. Changes in Offices and Positions.
Sec. 18.108. Status of Incumbent Officer and Employees.
Sec. 18.109. Exempt Positions.
Sec. 18.110. Provisional Appointments.

SEC. 18.100. EFFECTIVE DATE OF THIS ARTICLE XVIII.

This Article XVIII shall take effect upon the filing of this Charter with the Secretary of State of the State of California. This Article, and each individual section, shall expire and go out of existence when the last act, required to be done in this Article, or individual section, has been completed; and, thereafter, the Clerk of the Board of Supervisors shall secure its removal from the next printing of this Charter.

SEC. 18.101. OPERATIVE DATE OF THIS CHARTER; EFFECT OF ENACTMENT ON EXISTING LAW.

This Charter shall be operative July 1, 1996, and on that date shall supersede the Charter of 1932. Any authority vested in the Mayor to remove commissioners and department heads not granted in the Charter of 1932 shall be effective July 1, 1997. All references in this Article to the "Charter of 1932" shall be to the Charter of 1932, as recodified in 1971, and as amended as of December 31, 1995.

To the extent the provisions of this Charter are the same in terms or in effect as provisions of the Charter of 1932, they shall be construed and applied as a continuation of those provisions.

All provisions of local law relating to or affecting the City and County in force when this Charter becomes operative are hereby repealed and superseded only to the extent they are inconsistent with the provisions of this Charter.

Any amendments to the Charter of 1932 adopted at the November 7 1995, election shall be incorporated into this Charter and shall supersede any conflicting provisions, even if the amendments receive fewer votes than this Charter. The Clerk of the Board of Supervisors, in consultation with the City Attorney, shall conform the format and terminology of the amendments to this Charter.

In adopting this revised Charter, the voters do not intend to amend or otherwise affect the provisions of any initiative ordinance in effect on the date this revision is adopted, including the Initiative Refuse Collection and Disposal Ordinance, adopted November 8, 1932, as amended, except that the City

Administrator and the General Manager of Public Utilities shall succeed to the functions of the Chief Administrative Officer and the Manager of Utilities, respectively, as specified in that Initiative Ordinance.

The Retirement Board shall continue to exercise powers of management and control of workers' compensation programs until those functions are transferred pursuant to previously adopted ordinances to the Department of Human Resources.

SEC 18.103. TRANSFER OF 1932 CHARTER SECTIONS TO ORDINANCE AND INITIATIVE ORDINANCES.

The following sections of the Charter of 1932 shall be deemed enacted into ordinance and may be amended by the Board of Supervisors on the operative date of this Charter; provided, however, that in the instance of conflict or inconsistency between the ordinance or a portion of the ordinance and this Charter, this Charter shall prevail:

1.103
2.101
2.203
2.203-3
3.100, paragraph 8, sentences 5—6
3.201
3.301—3.303, inclusive
3.402
3.501
3.502
3.523
3.529
3.531
3.533—3.535, inclusive
3.537—3.539, inclusive
3.540—3.547, inclusive
3.551—3.552
3.560
3.570—3.572, inclusive
3.590—3.599, inclusive
3.601
3.621—3.624, inclusive
3.631, 3.632, and 3.634
3.640—3.641, inclusive
3.642, second sentence only
3.680, third paragraph only
3.691—3.694, inclusive
3.698.1—3.698.3, inclusive
3.699-2
3.707
6.207
6.300—6.304, inclusive

6.306—6.310, inclusive
6.312—6.313
6.400—6.403, inclusive
6.407—6.408, inclusive
6.410
7.100—7.104, inclusive
7.200—7.203, inclusive
7.205—7.206, inclusive
7.304
7.306
7.308
7.400—7.405, inclusive
7.600—7.606, inclusive
7.701—7.703, inclusive
8.104
8.106
8.311
8.410—8.411
9.104, fifth paragraph only
9.113—9.115, inclusive

Ordinances and policy declarations adopted by the voters shall not be published as part of this Charter, in an appendix or otherwise, but shall be published as provided in this Charter for other ordinances, and shall be included in any codification of ordinances as provided in this Charter and be designated as initiative ordinances.

SEC. 18.104. TRANSFER OF FUNCTIONS, POWERS AND DUTIES.

On the operative date of this Charter, all offices, agencies and departments of the City and County then in existence under the Charter of 1932 shall continue to perform their functions, exercise their authority and fulfill their responsibilities, as they existed immediately before this Charter's becoming operative subject to the provisions of this Article. Not later than 90 days after the operative date of this Charter, each such office, agency and department for which this Charter does not provide shall cease to exist, and its functions, powers and duties shall be transferred to the appropriate governmental unit created by this Charter or under the authority of this Charter. The Board of Supervisors and the Mayor shall take all action necessary to provide for the orderly transfer of functions, authority and responsibility on or before the date of such transfer.

SEC. 18.105. CHANGES IN OFFICES AND POSITIONS.

The Chief Administrative Officer and the Controller serving on November 7, 1995, shall be appointed to the offices, respectively, of City Administrator and Controller. These offices shall have the functions, powers and duties assigned by this Charter, and their initial terms of office in effect immediately prior to the date of this Charter shall remain unchanged, except that the term of office of the City Administrator shall be five years from the incumbent's appointment as Chief Administrative Officer.

The Clerk of the Board of Supervisors serving on November 7, 1995, shall be appointed as Clerk of the Board of Supervisors. This position shall remain a classified position as long as the person holding the position on November 7, 1995, remains in this position.

The Secretary-General Manager of the Retirement System serving on November 7, 1995, shall succeed to the position of executive director. This position shall remain a classified position as long as the person holding the position on November 7, 1995, remains in this position.

The General Manager of the Department of Social Services shall succeed to the position of executive director of the Department of Human Services.

The offices of Assessor and Recorder shall be consolidated no earlier than July 1, 1997. Prior to that date, the functions, powers and duties of the Recorder shall continue to be performed by the Recorder-County Clerk, as that office is established in the Charter of 1932. After July 1, 1997, the functions, powers and duties of the County Clerk shall be transferred to the City Administrator and the functions, powers and duties of the Recorder shall be transferred to the Assessor-Recorder. The person holding office as Recorder-County Clerk at the time of the transfer shall become a deputy department head to the Assessor-Recorder, and shall maintain his or her classified status.

The Social Services Commission shall succeed to the Human Services Commission.

On the operative date of this Charter, the City Administrator shall be responsible for the following functions until they are reassigned by the Mayor, with approval by the Board of Supervisors, or by operation of this Charter: Department of Public Works, Government Services, Purchasing, Real Estate, Electricity and Telecommunication, Public Guardian, Convention Facilities, Animal Control, County Clerk/ Recorder, County Agriculture, Weights and Measures and Registrar of Voters/Department of Elections; Medical Examiner; and all projects previously assigned by ordinance to the Chief Administrative Office, including but not limited to: George R. Moscone Center Project, Clean Water program, Publicity and Advertising Fund, Risk Management, Beautification project, EIPSC, Waterfront project and Solid Waste Management.

SEC. 18.108. STATUS OF INCUMBENT OFFICERS AND EMPLOYEES.

The changes in and transfers of functions, powers and duties which occur at the time this Charter becomes operative shall not affect or impair the rights or privileges of permanent civil service officers or employees of the City and County relating to appointment, rank, grade, compensation, tenure of office, promotion, discipline, removal, pensions and retirement, except as provided in this Charter.

Whenever a position previously within the classified municipal civil service is, pursuant to this Charter, designated exempt from the civil service provisions of this Charter, the permanent civil service incumbent in such position at the time this Charter becomes operative shall continue to have civil service status in that position under the civil service provisions of this Charter.

If by the terms of this Charter, or action taken by authority of this Charter:

1. All or substantially all of the duties of any position exempt from the civil service provisions of the Charter of 1932 are transferred to another office, agency or department, that position shall be transferred to that office, agency or department and the person holding the position on the operative date of this Charter shall be transferred with the position.

2. All or substantially all of the duties of any civil service position are transferred to another office, agency or department, that position shall be transferred to that office, agency or department and the permanent civil service appointee holding the position on the operative date of this Charter shall be transferred with the position.

SEC. 18.109. EXEMPT POSITIONS.

The Board of Supervisors and the Mayor, through the budget for the fiscal year ending June 30, 1996, shall designate the positions exempt from civil service, within the categories provided in Article X of this Charter.

SEC. 18.110. PROVISIONAL APPOINTMENTS.

Unless their appointments are renewed pursuant to the provisions of Section 10.105, the employment of all provisional employees, appointed under the Charter of 1932, whose appointment does not meet the provisions of this Charter, shall be terminated within three years of the operative date of this Charter in accordance with the rules and regulations governing layoffs. Such provisional employees may qualify for certification as eligibles under rules and regulations expressly authorized by civil service rules approved by the Board of Supervisors. Such rules may establish special credit for civil service examinations for years of service or, through other methods, recognize the service of such employees who have held such employment for more than six months at the operative date of this Charter.

APPENDIX A

EMPLOYMENT PROVISIONS*

Citations in these appendices to other Charter sections refer to provisions of the 1932 Charter, as amended. Not all of those provisions have been carried forward under the new Charter.

A7.204	Contractors' Working Conditions
A8.329	Certification of Eligibles
A8.341	Removal or Discharge of Permanent, Non-Probationary Employees
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A8.586-10	Computation of Service
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A8.586-12	Right to Retire
A8.586-13	Limitation on Employment During Retirement
A8.586-14	Conflicting Charter Provisions
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A8.587	Retirement – Miscellaneous Officers and Employees on and after November 7, 2000
A8.588-10	Computation of Service
A8.590-1	Declaration of Policy
A8.590-2	Employees Covered
A8.590-3	Prohibition against Strikes
A8.590-4	Obligation to Negotiate in Good Faith
A8.590-5	Impasse Resolution Procedures
A8.590-6	Retiree Benefit Adjustments
A8.590-7	Preservation of Tax Benefits

A7.204 CONTRACTORS' WORKING CONDITIONS

Every contract for any public work or improvement to be performed at the expense of the city and county, or paid out of moneys deposited in the treasury, whether such work is to be done directly under contract awarded, or indirectly by or under subcontract, subpartnership, day labor, station work, piece work, or any other arrangement whatsoever, must provide:

(a) that in the performance of the contract and all work thereunder, eight hours shall be the maximum hours of labor on any calendar day, except that hours of labor in excess of eight hours per day may be permitted when conditions so warrant upon the approval of the department head responsible for the supervision of the contract, provided that compensation for all hours worked in excess of eight hours per day conforms to the requirements of the Labor Code of the State of California and all applicable federal laws;

(b) that any person performing labor thereunder shall be paid not less than the highest general prevailing rate of wages in private employment for similar work; however, the Board of Supervisors may by resolution exempt from the prevailing wage requirement any contract where the work is to be performed by a non-profit organization that provides job training and work experience for disadvantaged individuals in need of such training and experience, and either (1) has a board of directors which is appointed by the Mayor, or (2) exists primarily to design and build urban gardens, yards and play areas;

(c) that any person performing labor in the execution of the contract shall be a citizen of the United States;

(d) that all laborers employed in the execution of any contract within the limits of the city and county shall have been residents of the city and county for a period of one year immediately preceding the date of their engagements to perform labor thereunder; provided, however, that the officer empowered to award any such contract may, upon application of the contractor, waive such residence qualifications

and issue a permit specifying the extent and terms of such waiver whenever the fact be established that the required number of laborers and mechanics possessing qualifications required by the work to be done cannot be engaged to perform labor thereunder.

The term "public work" or "improvement," as used in this section shall, include the fabrication, manufacturing or assembling of materials in any shop, plant, manufacturing establishment or other place of employment, when the said materials are of unique or special design, or are made according to plans and specifications for the particular work or improvement and any arrangement made for the manufacturing, fabrication or assembling of such materials shall be deemed to be a contract or a subcontract subject to the provisions of this section.

The board of supervisors shall have full power and authority to enact all necessary ordinances to carry out the terms of this section and may by ordinance provide that any contract for any public work or improvement or for the purchase of materials which are to be manufactured, fabricated or assembled for any public work or improvement, a preference in price not to exceed 10 percent shall be allowed in favor of such materials as are to be manufactured, fabricated or assembled within the City and County of San Francisco as against similar materials which may be manufactured, fabricated or assembled outside thereof. When any such materials are to be fabricated, assembled or manufactured by any subcontractor or materialman for the purpose of supplying the same to any contractor bidding on or performing any contract for any public work or improvement, said subcontractor or materialman manufacturing, fabricating, assembling or furnishing said materials manufactured, assembled or fabricated within the City and County of San Francisco shall be entitled to the same preferential as would any original contractor or materialman furnishing the same if the board of supervisors by ordinance so provide. When any ordinance shall so provide any officer, board or commission letting any contract may in determining the lowest responsible bidder for the doing or performing of any public work or improvement add to said bid or sub-bid an amount sufficient not exceeding 10 percent in order to give preference to materials manufactured, fabricated or assembled within the City and County of San Francisco.

A8.329 CERTIFICATION OF ELIGIBLES

Whenever a position controlled by the civil service provisions of this Charter is to be filled, the appointing officer shall make a requisition to the department of human resources for a person to fill it. Thereupon, the department shall certify to the appointing officer the names and addresses of all those persons meeting the certification rule established for that classification. The Civil Service Commission shall establish certification rules. Certification rules shall not be more restrictive than the certification of all candidates receiving the three highest scores on the list of eligibles for such positions. The appointing officer shall fill the position by the appointment of one of the persons certified. In making such certification, sex shall be disregarded except when a statute, rule of the commission or the appointing officer specifies sex; provided however, the appointing officer shall give due consideration to applicable civil service equal employment opportunity (EEO) goals

so as to maximize diversity at all levels of city employment. The Mayor and the Board of Supervisors shall annually review each department's performance in meeting its civil service EEO obligations.

From the requisition of the appointing officer or otherwise, the department shall determine whether the position is, in character, temporary, seasonal or permanent, and shall notify the candidate in accordance therewith to the end that the candidate may have knowledge of the probable duration of employment. The department shall provide for such waiver of temporary or seasonal employment as it may deem just to candidates.

Notwithstanding anything to the contrary in this or any other provision of the charter, an employee who has been certified from a regularly adopted eligible list to a non-permanent position in a civil service classification shall be entitled to appointment to a permanent position within that same classification before the department certifies to the appointing officer the names and addresses of persons standing higher on the list of eligibles who are not then current employees, subject to a demonstration of satisfactory job performance in the non-permanent position for a period and in the manner provided by rule of the commission. The provisions of this section as herein amended shall only be applicable to requisitions for permanent positions filled from and after January 1, 1980.

A8.341 REMOVAL OR DISCHARGE OF PERMANENT, NON-PROBATIONARY EMPLOYEES

A. Any person employed under the civil service provisions of this charter, exclusive of members of the uniformed ranks of the police and fire departments as provided under Section 8.343 hereof, in a position defined by the commission as "permanent" may be removed or discharged by the appointing officer for just cause, after being provided with written notice of the charges, copies of all documentation upon which the charges are based and after an opportunity to respond to the charges before the appointing officer or his or her designee. Pending investigation of conduct involving misappropriation of public funds or property, misuse or destruction of public property, drug addiction or habitual intemperance, mistreatment of persons, immorality, acts which would constitute a felony or misdemeanor involving moral turpitude, or acts which present an immediate danger to the public health and safety the appointing officer may place the accused person on unpaid administrative leave for no more than 30 days unless the investigation shall be delayed beyond such time by the act of the accused person. When the appointing officer imposes discharge or removal he or she shall, in writing, notify the person removed or discharged of the right to appeal the discharge or removal by mailing such statement to his last known address. The employee shall have thirty days from the date of mailing of the notice to file an appeal of the matter in writing with the appointing officer. Upon receipt of a timely appeal, the appeal shall be conducted forthwith by a qualified and unbiased hearing officer who shall be employed under contract by the city and county and selected by procedures set forth in the rules of the civil service commission. The hearing officer shall publicly hear and determine the appeal, and may approve the discharge or removal, or exonerate, or suspend the accused.

If the employee is exonerated the hearing officer may, at his or her

discretion, order payment of salary to the employee for the period of the discharge or removal or unpaid administrative leave, and the report of such period of discharge or removal or unpaid administrative leave shall thereupon be expunged from the record of service of such employee.

The civil service commission shall immediately be notified of the charges when made, of the action of the appointing officer to remove or discharge, of the appeal, and of the finding thereon. The finding of the hearing officer shall be final.

The civil service commission may remove or discharge an employee for any charge filed by a citizen or by any member of or authorized agent of the commission when the appointing officer neglects or refuses to take such action against the employee within 30 days of notification to the department head of the occurrence or event giving rise to the charge. Removal or discharge may be made for any cause after the employee is provided with written notice of the charges, copies of all documentation upon which the charges are based and after the employee has had the opportunity to respond to the charges before the civil service commission or its designee. The decision of the civil service commission shall be final.

Nothing in this section shall limit or restrict rules adopted by the commission governing dismissal of probationary employees, lay-offs or reduction in force or providing for the removal of any appointee who has abandoned his or her position as defined by civil service commission rule.

B. Notwithstanding the provisions of Subsection A above, a recognized employee organization and any affected city department may agree to alternative procedures, including final and binding arbitration by a neutral arbitrator jointly selected by the employee organization and the city, to deal with charges brought against individual employees, the resolution of such charges and the appropriate discipline, if any, to be imposed on the employee. Said alternative procedures shall be included in a Memorandum of Understanding between the city and the employee organization which shall be effective when ratified by the board of supervisors.

A8.342 DISCIPLINARY SUSPENSIONS

The appointing officer may, for disciplinary purposes, suspend a subordinate for a period not exceeding 30 days; and suspension shall carry with it the loss of salary for the period of suspension. The suspended employee shall be notified in writing of the reason for such suspension, and if the suspension be for more than five days the employee shall, at his request, be given a hearing by the appointing officer. The decision of the appointing officer in all cases of suspension for disciplinary purposes shall be final.

A8.343 FINE, SUSPENSION AND DISMISSAL IN POLICE AND FIRE DEPARTMENTS

Members of the uniformed ranks of the fire or the police department guilty of any offense or violation of the rules and regulations of their respective departments, shall be liable to be punished by reprimand, or by fine not exceeding one month's salary for any offense, or by suspension for not to exceed three

months, or by dismissal, after trial and hearing by the commissioners of their respective departments; provided, however, that the chief of each respective department for disciplinary purposes may suspend such member for a period not to exceed 10 days for violation of the rules and regulations of his department. Any such member so suspended shall have the right to appeal such suspension to the fire commission or to the police commission, as the case may be, and have a trial and hearing on such suspension. Written notice of appeal must be filed within 10 days after such suspension and the hearing of said appeal must be held within 30 days after the filing of said notice of appeal. If the commission shall reverse or alter the finding of the chief, it shall in the case of a reversal and in other cases it may in its discretion, order that the member affected be paid salary for the time of his suspension. In the event the chief should exercise such power of suspension, the member involved shall not be subject to any further disciplinary action for the same offense.

Subject to the foregoing, members of the uniformed ranks of either department shall not be subject to dismissal, nor to punishment for any breach of duty or misconduct, except for cause, nor until after a fair and impartial trial before the commissioners of their respective departments, upon a verified complaint filed with such commission setting forth specifically the acts complained of, and after such reasonable notice to them as to time and place of hearings as such commission may, by rule, prescribe. The accused shall be entitled, upon hearing, to appear personally and by counsel; to have a public trial; and to secure and enforce, free of expense, the attendance of all witnesses necessary for his defense.

A8.344 EXONERATION OF CHARGES

If, as provided for in Section 8.343 a member of the uniformed ranks of the police and fire departments is suspended by the chief of the respective department pending hearing before the police or fire commission for charges filed against him and subsequently takes a leave of absence without pay pending his trial before the commission, and, if after such trial he is exonerated of the charges filed against him, the commission may, at its discretion, remit the suspension and leave of absence without pay and may order payment of salary to such member for the time under suspension and on leave of absence without pay, and the report of such suspension and leave of absence without pay shall thereupon be expunged from the record of service of such member.

A8.345 DISCIPLINARY ACTION AGAINST STRIKING EMPLOYEES

The people of the City and County of San Francisco hereby find that the instigation of, or participation in, strikes against said city and county by any member of the uniformed forces of the police or fire departments constitutes a serious threat to the lives, property and welfare of the citizens of said city and county and hereby declares as follows:

No uniformed member of the police and fire departments employed under the civil service provisions of this charter shall instigate, participate in, or afford leadership to a strike against the city and county, or engage in any picketing activity in furtherance of such a strike. In the event of any such strike against the city and

county, it shall be the duty of the appropriate appointing officer of the city and county to ascertain the identity of any officer or employee of the city and county under his jurisdiction who is in violation of the provisions of this section and to initiate dismissal proceedings against said officer or employee in accordance with the provisions of Section 8.341 of this chapter. Any citizen of the city and county may file written charges against an officer or employee in violation of the provisions of this section and the appropriate appointing officer shall receive and investigate, without delay, any such written charge, and forthwith inform said citizen of findings and action, or proposed action, thereon.

If the appointing officer, after a hearing, determines that the charges are supported by the evidence submitted, said appointing officer shall dismiss the employee involved and said employee shall not be reinstated or returned to City and County of San Francisco employment except as a new employee who is employed in accordance with the regular employment practices of the city and county in effect for the particular position of employment.

In the event any appointing officer determines that he shall be unable to meet constitutional due process requirements in providing a timely hearing to any officer or employee charged hereunder, he may, subject to the budget and fiscal provisions of the charter, engage the services of one or more qualified hearing officers to conduct hearings hereunder. In conducting said hearings, any hearing officer shall have the same powers as granted to an appointing officer hereunder.

No officer, board or commission of the city and county shall have the power to grant amnesty to any person charged with a violation of any of the provisions of this section.

In order to bring the provisions of this section to the attention of any person who may be affected thereby, each member of the uniformed force of the police department and each member of the uniformed force of the fire department on the effective date of this section, and each person appointed to the position of Q2 police officer or the position of H2 fireman on or after the effective date of this section shall be furnished a copy of the provisions of this section and shall make under oath and file in the office of the civil service commission the following declaration: "I hereby acknowledge receipt of a copy of the provisions of Section 8.345 of the charter of the City and County of San Francisco and hereby declare that during the term of my employment in either the Police Department or the Fire Department of said City and County, I shall neither instigate, participate in or afford leadership to a strike against said City and County nor engage in any picketing activity in furtherance of such a strike."

A dismissal imposed pursuant to this section (8.345) shall not be appealable to the civil service commission.

A8.346 DISCIPLINARY ACTION AGAINST STRIKING EMPLOYEES OTHER THAN MEMBERS OF POLICE AND FIRE DEPARTMENT

The people of the city and county of San Francisco hereby find that the instigation of or participation in, strikes against said city and county by any officer or employee of said city and county constitutes a serious threat to the lives, property, and welfare of the citizens of said city and county and hereby declare as

follows:

(a) As used in this section the word "strike" shall mean the willful failure to report for duty, the willful absence from one's position, any concerted stoppage or slowdown of work, any concerted interruption of operations or services by employees, or the willful abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in the conditions of employment; provided, however, that nothing contained in this section shall be construed to limit, impair, or affect the right of any municipal employee to express or communicate a view, grievance, complaint, or opinion on any matter related to the conditions or compensation of municipal employment or their betterment, so long as the same is not designed to and does not interfere with the full, faithful, and proper performance of the duties of employment.

(b) No person holding a position by appointment or employment under the civil service provisions of this charter, exclusive of uniformed members of the police and fire departments as provided under Section 8.345 of this charter, which persons are hereinafter referred to as municipal employees, shall strike, nor shall any municipal employee cause, instigate, or afford leadership to a strike against the city and county of San Francisco. For the purposes of this section, any municipal employee who willfully fails to report for duty, is willfully absent from his or her position, willfully engages in a work stoppage or slowdown, willfully interrupts city operations or services, or in any way willfully abstains in whole or in part from the full, faithful, and proper performance of the duties of his or her employment because such municipal employee is "honoring" a strike by other municipal employees, shall be deemed to be on strike.

(c) No person exercising any authority, supervision, or direction over any municipal employee shall have the power to authorize, approve, or consent to a strike by any one or more municipal employees, and such person shall not authorize, approve, or consent to such strike. No officer, board, commission or committee of the city and county of San Francisco shall have the power to grant amnesty to any person who has violated any of the provisions of this section, and such officer or bodies shall not grant amnesty to any person who has violated any of the provisions of this section.

(d) Notwithstanding any other provision of law, a person violating any of the provisions of this section may subsequent to such violation be appointed or reappointed, employed or re-employed as a municipal employee of the city and county of San Francisco, but only on the following conditions:

(1) such person shall be appointed or reappointed, employed or re-employed as a new appointee or employee, who is appointed or employed in accordance with all charter provisions, ordinances, rules or regulations of said city and county in effect for new employees at the time of appointment, reappointment, employment or re-employment;

(2) the compensation of such person shall not be increased by virtue of any previous employment with said city and county.

(e) In the event of a strike, or if the mayor with the concurrence of a majority of the board of supervisors determines that a strike is imminent, a special committee shall convene forthwith, which special committee shall consist of the presidents of the airports commission, civil service commission, fire commission, police commission, public transportation commission and public utilities commission. The president of the civil service commission shall serve as chairman of the special committee. Notwithstanding any other provision of law, it shall be the duty of the special committee to dismiss in accordance with the provisions of this section any municipal employee found to be in violation of any provisions of this section. Any person may file with the special committee written charges against a municipal employee or employees in violation of any of the provisions of this section and the special committee shall receive and investigate, without undue delay, and where necessary take appropriate actions regarding any such written charge(s), and forthwith inform that person of its findings and action, or proposed action thereon.

In the event of a strike or determination of imminent strike as specified above, each appointing officer shall deliver each day no later than 12:00 o'clock noon to the chairman of the special committee a record of the absence of each employee under his or her authority for the prior day and a written report describing incidents of and the participant(s) in violations of this section wherever the identity of the participant(s) is known to him or her and the participant(s) is (are) under his or her authority.

In addition each appointing officer shall provide to the special committee, whenever it has been convened under authority of law, any other information determined by the special committee to be necessary for the discharge of its duties. The failure of an appointing officer to discharge any of the duties imposed upon him or her by this section shall be official misconduct.

(f) An employee charged by the special committee with a violation of this section shall be notified of the time and place of the hearing on the charges and of the nature of the charges against him or her. Said employee shall be given such other information as is required by due process. Said employee shall respond to said charges by a sworn affidavit, signed by him or her, and by such other information and documentation and in such a manner as is prescribed by the special committee. An employee failing to provide the responses required by this section or in any way failing to comply with the procedural time limitations and information requirements imposed by the special committee shall be immediately suspended and shall not be entitled to a hearing until he or she has fully complied with the aforementioned requirements.

If the special committee, after a hearing, determines that the charges against the employee are supported by the preponderance of the evidence submitted, said special committee shall dismiss the employee involved and said employee shall not be reinstated or returned to city and county service except as specified in Subsection (d). A dismissal or suspension invoked pursuant to the provisions of this section shall not be appealable to the civil service commission.

(g) The special committee shall discharge its duties in a timely manner while preserving the due process rights of employees with the objective of obtaining immediate sanctions against striking employees. The willful failure of any member

of this special committee faithfully and fully to discharge his or her duties in a timely manner and to accord absolute priority to the performance of those duties shall be deemed official misconduct.

In the event the special committee determines that it shall be unable to comply with constitutional due process requirements that a timely hearing be provided or that it shall be unable to comply with its obligations fully and in a timely manner to investigate and hear all violations of this section, then the special committee may, subject to the budget and fiscal provisions of the charter, engage the administrative and clerical personnel, investigators, and one or more hearing officers to conduct hearings hereunder. In conducting hearings, the hearing officers shall have the same powers of inquiry and disposition as the special committee.

(h) In order to provide for the effective operation of this section in the event of a strike or determination of imminent strike, the president of the civil service commission, not later than 30 days after this section becomes effective, shall convene the special committee which shall adopt rules, regulations, and procedures for the investigation, hearing and disposition of all violations of this section.

(i) In order to bring the provisions of this section to the attention of any person who may be affected thereby, each municipal employee on the effective date of this section, exclusive of members of the uniformed forces of the police and fire departments as provided in Section 8.345 hereof, and each person appointed or employed as a municipal employee pursuant to the civil service provisions of this charter, exclusive of persons appointed to the entrance positions in the uniformed forces of the police and fire departments as provided in Section 8.345 hereof, on or after the effective date of this section shall be furnished a copy of this section and shall acknowledge such receipt in writing. The signed, written receipt shall be filed in the office of the civil service commission and maintained therein for the term of his or her employment with the City and County of San Francisco.

(j) The provisions of Sections 3.100 and 3.100-1, relating to the emergency powers of the mayor, shall not be applicable to the provisions of this section.

(k) If any clause, sentence, paragraph, subsection, or part of this section shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subsection, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

A8.364 AUTHORIZATION TO TRANSFER UNUSED SICK LEAVE

(a) Employees of the City and County of San Francisco may transfer their unused accumulated sick leave to other employees of the City and County of San Francisco who have been determined to be catastrophically ill, and who have exhausted their vacation allowance, sick leave and compensatory time off, provided that such determination and such transfer may be made only in compliance with the terms and conditions established by ordinance adopted by the board of supervisors.

(b) Notwithstanding Sections 8.360 and 8.363 of this charter, within sixty (60) days of the effective date of this section, the Health Commission, Civil Service

Commission, and Retirement Board shall conduct a joint hearing to consider and develop recommendations for submission to the Board of Supervisors. The Board of Supervisors shall adopt an ordinance, as provided in subsection (a), and establish any rules necessary to administer, interpret, and regulate the provisions of this section, provided that all such rules shall be approved, amended, or rejected by resolution by the Board of Supervisors. (Amended November 1999)

A8.400 GENERAL RULES FOR ESTABLISHING AND PAYING COMPENSATION

(a) The board of supervisors shall have power and it shall be its duty to fix by ordinance from time to time, as provided in Section 8.401, all salaries, wages and compensations of every kind and nature, except pension or retirement allowances, for the positions, or places of employment, of all officers and employees of all departments, offices, boards and commissions of the city and county in all cases where such compensations are paid by the city and county.

(b) The board of supervisors shall have power by ordinance to provide the periods when salaries and wages earned shall be paid provided, that until such ordinance becomes effective, all wages and salaries shall be paid semi-monthly. No salary or wage shall be paid in advance. It shall be official misconduct for any officer or employee to present or approve a claim for full-time or continuous personal service other than in the manner provided by this charter.

(c) All personal services shall be paid by warrants on the basis of a claim, bill, timeroll or payroll approved by the head of the department or office employing such service. The claims, bills or payrolls, hereinafter designated as payrolls, for salaries, wages or compensation for personal services of all officers, assistants and employees of every class or description, without regard to the name or title by which they are known, for each department or office of the city and county shall be transmitted to the department of human resources before presentation to the controller.

(d) The human resources director shall verify that all persons whose names appear on payrolls have been legally appointed to or employed in positions legally established under this charter. In performing such verification said director may rely upon the results of electronic data processing. Said director shall direct his attention to exception reports produced by such processing; he shall approve or disapprove each item thereon and transmit said exception reports to the controller. The controller shall not draw his warrant for any claim for personal services, salary, wages or compensation which has been disapproved by the said director.

(e) For the purpose of the verification of claims, bills, timerolls, or payrolls, contractual services represented by teams or trucks hired by any principal executive or other officer of the city and county shall be considered in the same manner as personal service items and shall be included on payrolls as approved by said principal executive or other officers, and shall be subject to examination and approval by the human resources director and the controller in the same manner as payments for personal services.

(f) The salary, wage or other compensation fixed for each officer and employee in, or as provided by this charter, shall be in full compensation for all services rendered, and every officer and employee shall pay all fees and other

moneys received by him, in the course of his office or employment, into the city and county treasury.

(g) No officer or employee shall be paid for a greater time than that covered by his actual service; provided, however, that the basic amount of salary, wage or other compensation, excluding premium pay differentials of any type whatsoever of any officer or employee who may be called upon for jury service in any municipal, state or federal court, shall not be diminished during the term of such jury service. There shall, however, be deducted from the amount of basic salary, wage or other compensation, excluding any pay premium differentials of any type whatsoever payable by the city and county to the officer or employee for such period as such officer or employee may be absent on account of jury service, any amounts which the officer or employee may receive on account of such jury service. Any absence from regular duty or employment while on jury duty shall be indicated on timerolls by an appropriate symbol to be designated by the controller.

(h) Notwithstanding any other limitation in the Charter to the contrary, and subject to meet and confer obligations of state law, the Mayor may request that the Board of Supervisors enact, and the Board shall then have the power to so enact, an ordinance entitling City officers or employees called to active duty with a United States military reserve organization to receive from the City the following as part of the individual's compensation: for a period to be specified in the ordinance which may not exceed 180 days, the difference between the amount of the individual's military pay and the amount the individual would have received as a City officer or employee had the employee worked his or her normal work schedule, including any merit raises which otherwise would have been granted during the time the individual was on active duty. Any such ordinance shall be subject to the following limitations and conditions:

1. The individual must have been called into active service for a period greater than 30 consecutive days.

2. The purpose for such call to active service shall be extraordinary circumstances and shall not include scheduled training, drills, unit training assemblies, or similar events.

3. The amounts authorized pursuant to such an ordinance shall be offset by amounts required to be paid pursuant to any other law in order that there be no double payments.

4. Any individual receiving compensation pursuant to such an ordinance shall execute an agreement providing that if such individual does not return to City service within 60 days of release from active duty, or if the individual is not fit for employment at that time, within 60 days of return to fitness for employment, then that compensation shall be treated as a loan payable with interest at a rate equal to the greater of (i) the rate received for the concurrent period by the Treasurer's Pooled Cash Account or (ii) the minimum amount necessary to avoid imputed income under the Internal Revenue Code of 1986, as amended from time to time, and any successor statute. Such loan shall be payable in equal monthly installments over a period not to exceed 5 years, commencing 90 days after the individual's release from active service or return to fitness for employment, as the case may be.

5. Such an ordinance shall not apply to any active duty served voluntarily after the time that the individual is called to active service.

6. Such ordinance shall not be retroactive.

A8.402 COMPENSATION OF TEACHERS, PART-TIME EMPLOYEES AND CERTAIN OTHER GROUPS

Compensations of the teaching and other technical forces of the school department and employees of the Steinhart Aquarium and law library departments, construction employees engaged outside of the city and county, part-time employees, and inmate and institutional help receiving less than $50 per month, shall be fixed by the department head in charge thereof, with the approval of the board or commission, if any, in charge of the department concerned and subject to the budget and appropriation provisions of this charter; provided that part-time employees shall be recorded as such by a principal executive, only with approval of the civil service commission and, when so recorded, shall be noted as part-time on payrolls, budget estimates, salary ordinance and similar documents.

A8.403 COMPENSATION FOR REGISTERED NURSE CLASSIFICATIONS

The salary, conditions and benefits of employment of the various classifications of nurses required to possess a registered nurse license issued by the State of California as provided for in this section as compensation shall be determined and fixed annually as follows:

(a) On or before May 1, 1982, and each year thereafter, the civil service commission shall certify to the board of supervisors for the acute care staff nurse classification the highest prevailing salary schedule in effect on April 15 of that year, and salary adjustments, if any, to be effective during the city and county's next succeeding fiscal year, granted by collective bargaining agreement to comparable registered nurse employees in public and private employment in the counties of Alameda, Contra Costa, Marin, San Mateo, San Francisco and Santa Clara. Rates of pay for other registered nurse classifications shall reflect not less than the same relationships to the benchmark registered nurse classification that those classifications had in fiscal year 1980-1981 to the then benchmark classification.

(b) The board of supervisors shall on or before June 1, 1982, and each year thereafter, fix a salary schedule for each classification which shall not be in excess of the schedules certified by the civil service commission, for each such classification, except as provided in Subsection (f) below, and provided, further, that no employee's basic rate of pay shall be reduced to conform to the highest prevailing salary schedule except as provided for in Section 8.406;

(c) The rates of pay fixed for each classification shall become effective at the beginning of the next succeeding fiscal year;

(d) The terms "salary schedule" and "salary schedules" wherever used in this section are hereby defined and intended to include only the maximum rate of pay provided in each such salary schedule; the term "salary adjustments" shall mean an increase or decrease to the maximum rate of pay;

(e) At the time the board of supervisors fixes the salary schedule as provided in (b) above, the board of supervisors may fix as conditions and benefits

of employment other than salaries as compensation for each classification, conditions and benefits not to exceed the intent of those conditions and benefits granted by collective bargaining agreements to comparable classifications by the employer used for certification of the highest prevailing salary schedule by the civil service commission. The board of supervisors may establish such conditions and benefits notwithstanding other provisions or limitations of this charter, with the exception that such conditions and benefits shall not involve any change in the administration of or benefits of the retirement system, health service system or vacation allowances provided elsewhere in this charter. Conditions and benefits of employment existing prior to July 1, 1982 may be continued by the board of supervisors;

(f) When the employer used for certification in Subsection (a) above, provides rates of pay during the current fiscal year in excess of those fixed by the board of supervisors for said current fiscal year, or vacation and health service benefits greater than such similar benefits provided by this charter for the staff nurse classification, the civil service commission shall certify to the board of supervisors an amount not to exceed the difference of such salary and benefits converted to dollar values and the board of supervisors may provide additional salary, conditions and benefits of employment at a cost not to exceed said dollar value.

A8.404 SALARIES AND BENEFITS OF CARMEN

The wages, conditions and benefits of employment as provided for in this section of the various classifications of employment of platform employees and coach or bus operators of the municipal railway as compensation, shall be determined and fixed annually as follows:

(a) On or before the first Monday of August of each year, the civil service commission shall certify to the board of supervisors for each classification of employment the average of the two highest wage schedules in effect on July 1st of that year for comparable platform employees and coach or bus operators of other surface street railway and bus systems in the United States operated primarily within the municipalities having each a population of not less than 500,000 as determined by the then most recent census taken and published by the director of the census of the United States, and each such system normally employing not less than 400 platform employees or coach or bus operators, or platform employees, coach and bus operators.

(b) The board of supervisors shall thereupon fix a wage schedule for each classification of platform employees and coach and bus operators of the municipal railway which shall not be in excess of the average of the two highest wage schedules so certified by the civil service commission for each such classification.

(c) When, in addition to their usual duties, such employees are assigned duties as instructors of platform employees or coach or bus operators they shall receive additional compensation that shall be subject to negotiation in addition to the rate of pay to which they are otherwise entitled under the wage schedule as herein provided.

(d) The rates of pay fixed for platform employees and coach and bus operators as herein provided shall be effective from July 1st of the year in which such rates of pay are certified by the civil service commission.

(e) The terms "wage schedule" and "wage schedules" wherever used in this section are hereby defined and intended to include only the maximum rate of pay provided in each such wage schedule.

(f) At the time the board of supervisors fixes the wage schedule as provided in (b) above, the board of supervisors may fix as conditions and benefits of employment other than wages as compensation for platform employees and coach or bus operators of the municipal railway, conditions and benefits not to exceed those conditions and benefits granted by collective bargaining agreements to the comparable platform employees and coach or bus operators of the two systems used for certification of the average of the two highest wage schedules by the civil service commission. The board of supervisors may establish such conditions and benefits notwithstanding other provisions or limitations of this charter, with the exception that such conditions and benefits shall not involve any change in the administration of, or benefits of the retirement system, health service system or vacation allowances as provided elsewhere in this charter. For all purposes of the retirement system as related to this section, the word "compensation" as used in Section 8.509 of this charter shall mean the "wage schedules" as fixed in accordance with paragraphs (a) and (b) above, including those differentials established and paid as part of wages to platform employees and coach and bus operators of the municipal railway, but shall not include the value of those benefits paid into the fund established as herein provided. Provided that when in the two systems used for certification as provided above, vacation, retirement and health service benefits are greater than such similar benefits provided by this charter for platform employees, coach or bus operators of the municipal railway, then an amount not to exceed the difference of such benefits may be converted to dollar values and the amount equivalent to these dollar values shall be paid into a fund. The fund shall be established to receive and to administer said amounts representing the differences in values of the vacation, retirement and health service benefits, and to pay out benefits that shall be jointly determined by representatives of the city and county government and the representatives of the organized platform employees and coach and bus operators of the municipal railway. The civil service commission shall adopt rules for the establishment and general administration of the fund as herein provided. Such rules shall provide for a joint administration of the fund by representatives of the city and county government, which shall include representatives of the administrator of the agency responsible for the municipal railway and representatives of the organized platform employees, coach and bus operators of the municipal railway. Such rules may provide a procedure for final and binding arbitration of disputes which may arise between representatives of the city and county government and the representatives of the organized platform employees and coach and bus operators of the municipal railway. Such rules shall provide that all investments of the fund shall be of the character legal for insurance companies in California. Such rules and any amendments thereto shall be effective upon approval by the board of supervisors by ordinance.

(g) Notwithstanding any provisions of this charter, including other subparts of this section, the board of supervisors may, after meeting and conferring with and reaching agreement with the employee organization certified as the representative for municipal railway operators, fix wages and benefits of employment other than wages for platform employees and coach and bus operators of the municipal railway under this section for periods in excess of one year. Any ordinance fixing wages and benefits of employment other than wages adopted pursuant to this section for a period of more than one year shall contain a provision to the effect that during said period of time it shall be unlawful for the employees receiving the compensation so fixed to engage in a strike, work stoppage or conduct delaying or interfering with work at city and county facilities. Wages and benefits of employment other than wages established under this section shall not in any year exceed the limits established under paragraphs (b) and (f) of this section.

(h) Not later than the 25th day of August, the board of supervisors shall have the power and it shall be its duty, subject to the fiscal provisions of the charter but, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance as necessary to include the provisions for paying the rates of compensation and conditions and benefits other than wages fixed by the board of supervisors as in this section provided for platform employees and coach or bus operators for the then current fiscal year.

On recommendation of the civil service commission the board of supervisors shall establish a rate of pay for trainee platform men and bus or coach operators at a level reflecting the current labor market but below the basic hourly rate for motorman, conductor and bus operator.

A8.405 SALARIES OF UNIFORMED FORCES IN THE POLICE AND FIRE DEPARTMENTS

(a) Not later than the first day of August of each year, the civil service commission shall survey and certify to the board of supervisors rates of compensation paid police officers or patrol officers employed in the respective police departments in all cities of 350,000 population or over in the State of California, based upon the latest federal decennial census. For the purpose of the civil service commission's survey and certification the rates contained in said certification shall be the average of the maximum rates paid to each police officer or patrol officer classification performing the same or essentially the same duties as police officers or patrol officers in the City and County of San Francisco.

Thereupon the board of supervisors shall have the power, and it shall be its duty, by ordinance, to fix rates of compensation for the members of the police department whose annual compensations are set forth in Section 3.531 of this charter and said rates shall be in lieu of said annual compensations and shall be effective from the first day of July of the current fiscal year.

The rates of compensation, fixed in said ordinance,

(1) for the fourth year of service and thereafter for police officers, police patrol drivers and women protective officers the compensation shall be fixed at a rate which is the average maximum wage paid to police officer or patrol officer classifications in regular service in the cities included in the certified report of the

civil service commission. "Average wage" as used in this paragraph shall mean the sum of the maximum averages certified by the civil service commission divided by the number of police officer classifications in cities in said certification;

(2) for the first, second and third year of service for police officers, police patrol drivers and women protective officers shall be established in accordance with the general percentage differential between seniority steps found in the salary ranges included in the cities certified by the civil service commission for the same class;

(3) for said members of the police department other than police officers, police patrol drivers and women protective officers shall include the same percent of adjustment as that established by said ordinance for police officers in the fourth year of service; and

(4) shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this section, half dollars being taken to the next higher dollar amount.

The rates of compensation set forth in the budget estimates, the budget and the annual salary ordinance shall be those fixed by the board of supervisors as in this section provided and appropriations therefor shall be based thereon.

The expression "rates of compensation," as used in this section in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other city by way of holidays, vacations, other permitted absences of any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation."

Working benefits and premium pay differential of any type shall be allowed or paid to members of the police department referred to herein only as is otherwise provided in this charter.

For all purposes of the retirement system, the expression "rates of compensation" as used in this section, shall mean "salary attached to the rank" as used in Section 166 of the charter of 1932, as amended, and with the addition of fifteen dollars ($15) per month now provided in Subsection (b) with respect to members assigned to two-wheel motorcycle duty, shall also mean "compensation earnable" as used in Section 8.549.

The term "police officers or patrol officers" as used in this section shall mean the persons employed in the police departments of said cities of 350,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by police officers, police patrol drivers and women protective officers in the San Francisco Police Department.

In determining years of service necessary for a police officer, woman protective officer and police patrol driver to receive the annual compensation as provided for herein, service rendered prior to the effective date of this amendment shall be given full credit and allowed.

The absence of any police officer, woman protective officer or police patrol driver on military leave, as defined by Section 8.361 of this charter, shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided for herein.

On the recommendation of the chief of police, the commission may reward any member of the department for heroic or meritorious conduct. The form or amount of said reward to be discretionary with the commission, but not to exceed one month's salary in any one instance.

If any member of the department appointed as an assistant inspector is a sergeant at the time of the appointment or is appointed a sergeant thereafter, such member shall receive the rate of compensation attached to the rank of sergeant.

(b) Not later than first day of August of each year the civil service commission shall survey, and certify to the board of supervisors, additional rates of pay paid to members assigned to all two-wheel motorcycle duty in the respective police departments of all cities of 350,000 population or over in the State of California, based upon the latest decennial census. For the purpose of the civil service commission's survey and certification the additional rates for two-wheel motorcycle duty shall include the average additional amount paid to members assigned to two-wheel motorcycle duty in the cities surveyed.

Thereupon the board of supervisors shall have the power, and it shall be its duty, by ordinance, to fix the additional rate of pay for the members of the police department who are assigned two-wheel motorcycle duty. The additional rate of pay will be determined by the average additional wage paid to members in regular service in the cities included in the certified report of the civil service commission who are assigned to two-wheel motorcycle duty. "Average wage" as used in this paragraph shall mean the sum of the additional rates of pay certified by the civil service commission divided by the number of cities in said certification. Said additional rates shall be in lieu of said annual compensations and shall be effective from the first day of July of the current fiscal year.

Said rate of pay shall be in addition to the rate of compensation provided for in Subsection (a).

In no event shall the additional rate so fixed be less than fifteen dollars ($15) per month.

(c) Not later than the first day of August of each year, the civil service commission shall survey and certify to the board of supervisors rates of compensation paid firefighters employed in the respective fire departments of all cities of 350,000 population or over in the State of California, based upon the latest federal decennial census. For the purpose of the civil service commission's survey and certification the rates contained in said certification shall be the average of the maximum rates paid to each firefighter classification performing the same or essentially the same duties as firefighters in the City and County of San Francisco.

Thereupon, the board of supervisors shall have the power, and it shall be its duty, by ordinance, to fix rates of compensation for the members of the fire department whose annual compensations are set forth or otherwise provided in Section 3.542 of this charter, and said rates shall be in lieu of said annual compensations and shall be effective from the first day of July of the current fiscal

year.

The rates of compensation, fixed in said ordinance,

(1) for the fourth year of service and thereafter the rate of compensation shall be fixed at a rate which is the average of the maximum compensation paid firefighter classifications in regular service in the cities included in the certified report of the civil service commission. "Average wage" as used in this paragraph shall mean the sum of the maximum averages certified by the civil service commission divided by the number of firefighter classifications in cities in said certification;

(2) for the first, second and third year of service for firefighters shall be established in accordance with the general percentage differential between seniority steps found in the salary ranges included in the cities certified by the civil service commission for the same class;

(3) for said members of the fire department other than firefighters shall include the same percent of adjustment as that established by said ordinance for firefighters in the fourth year of service; and

(4) shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this section, half dollars being taken to the next higher dollar amount.

The expression "rates of compensation" as used in this section, in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other city by way of holidays, vacations, other permitted absences for any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation."

Working benefits and premium pay differentials of any type shall be allowed or paid to members of the fire department referred to herein only as is otherwise provided in this charter.

For all purposes of the retirement system, the expression "rates of compensation," as used in Subsections (c) and (d) of this section shall mean "salary attached to the rank" as used in Section 169 of the charter of 1932, as amended and "compensation earnable" as used in Section 8.549.

The term "firefighters" as used in this section shall mean the persons employed, in the fire departments of said cities of 350,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by drivers, stokers, tillermen, truckmen, or hosemen, in the San Francisco Fire Department.

The expression "members of the fire department" does not include members of the fire commission.

The absence of any officer or member of the fire department on military leave of absence, as defined by Section 8.361 of this charter shall be reckoned a part of such member's service under the city and county, for the purpose of computing years of service in gaining added compensation as provided in this charter.

On the recommendation of the chief of department, the commission may reward any officer or member of the department for heroic or meritorious conduct, the form or amount of said award to be discretionary with the fire commission, but not to exceed one month's salary in any one instance.

The rates of compensation for the ranks of captain, bureau of fire prevention and public safety, and lieutenant, bureau of fire investigation, shall be thirteen percent (13%) above the compensation established for the ranks of captain and lieutenant as provided for in this section. The rates of compensation for the ranks of inspector, bureau of fire prevention and public safety, and investigator, bureau of fire investigation, shall be ten percent (10%) above the compensation established for the rank of chief's operator as provided for in this section. The rate of compensation shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this subsection, half dollars being taken to the next higher dollar amount.

(d) The rates of compensation fixed pursuant to the provisions of Subsection (a)(1), (2) and (3) and the rates of compensation fixed pursuant to the provisions of Subsection (c)(1), (2) and (3) shall be the same. Such rates shall not exceed the highest average rate of compensation fixed pursuant to Subsections (a)(1), (2) and (3) and (c)(1), (2) and (3) above, whether it be paid to police officers, patrol officers or firefighters; provided, further, that the minimum rate of compensation attached to the rank of sergeant in the police department shall be equal to the rate of compensation attached to the rank of lieutenant in the fire department.

(e) Not later than the 25th day of August the board of supervisors shall have the power and it shall be its duty, subject to the fiscal provisions of the charter but without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance as necessary to include the provisions of paying the rates of compensation fixed by the board of supervisors as in this section provided for uniformed members of the police and fire departments for the then current fiscal year.

Notwithstanding any other charter provision, the rates of compensation for police officers and firefighters shall be annually further increased as follows:

(1) In the event that any city of 350,000 population or over in the State of California as defined in subsections (a) and (c) of this section has not finalized, fixed, or reached agreement as to the rates of compensation prior to the 25th day of August, the date for further and additional fixing of the rates of compensation and for further and additional amending of the annual appropriation ordinance and annual salary ordinance to provide for the paying of additional rates of compensation to police officers and firefighters shall extend to the 30th day of June of the following year.

(2) Should any city as defined in subsections (a) and (c) of this section finalize, fix or reach agreement as to the rates of compensation after the 25th day of August but prior to the 30th day of June of the following year, the board of supervisors shall have the power, and it shall be its duty, subject to the fiscal provisions of the charter, by ordinance, within 30 calendar days of said finalizing, fixing, or reaching agreement, further to fix the rates of compensation for the

uniformed members of the police and fire departments and to further amend the annual appropriation ordinance and the annual salary ordinance to include provisions for paying the rates of compensation as so further fixed pursuant to subsections (a), (b) and (c) of this section, and said rate of compensation shall be effective retroactive to the effective date of the agreement or legislation designated in subsections (a) and (c), but in no event prior to July 1 of the current fiscal year.

(f) Not later than the first day of August of each year, the civil service commission shall determine and certify to the board of supervisors the percentage of increase or decrease in the cost of living during the 12-month period ending March 31st of that same year as shown by the Consumer Price Index, All Items San Francisco, and the percentage of increase or decrease in the cost of living during the same period as shown by the Consumer Price Index, All Items, in the cities included in the certified report of said commission. The Consumer Price Index referred to herein is defined as that certain index issued by the U. S. Bureau of Labor Statistics and published in the Monthly Labor Review or a successor publication. In the event the U. S. Bureau of Labor Statistics discontinues the compilation and publication of said indexes, the board of supervisors shall have the power, and it shall be its duty, to appoint a statistical fact finding committee to determine the same data pursuant to the methods theretofore used by the U. S. Bureau of Labor Statistics. The cost of living adjustments as hereinafter provided shall be based upon the percentage of such increases or decreases. The board of supervisors may, in addition to the rates of compensation as established herein, and at the same time said rates of compensation are established, increase said rates of compensation by an amount equal to the difference between the average cost of living increase of the cities included in the certified report of the civil service commission and the actual cost of living increase for San Francisco. In the event the board of supervisors elects not to grant such cost of living increase in any year in which any such increase might be granted, the board of supervisors shall, upon a written request filed with the clerk of the board of supervisors not later than the 10th day of September of said year by representatives of the uniformed members of the police and fire departments, as designated by the police and fire commissions, respectively, submit the question of said cost of living increase to the qualified electors of the city and county at the next succeeding citywide election. In the event said cost of living increase is approved by a majority of the qualified electors voting thereon, said cost of living increase shall be effective as of the first day of the then current fiscal year.

(g) Notwithstanding any of the provisions contained in this section, no uniformed member of the police or fire department employed before July 1, 1976, whose compensation is fixed pursuant to the formula contained herein, shall suffer a salary reduction by the application of any new compensation schedules, and the rates for fiscal year 1975-76 shall continue until such time as the new schedules equal or exceed the current salary increment schedules, provided, however, that such time shall not be extended beyond June 30, 1982, and provided further that this prohibition against reduction of compensation for the designated employees shall not be deemed to supersede the provisions of Section 8.406 of this charter.

(h) Notwithstanding any of the provisions contained in this section, no uniformed member of the police or fire department, whose compensation is fixed pursuant to the formula contained herein, shall suffer a salary reduction by the application of the compensation schedules provided for herein. Provided, however, that this prohibition against reduction of compensation for the designated employees shall not be deemed to supersede the provisions of Section 8.406 of this charter.

(i) This amendment shall become effective immediately upon certification of election results and its provisions shall pertain to fixing rates of pay for police officers and firefighters during fiscal year 1986-87.

A8.406 SALARY DEDUCTIONS

Whenever, in the judgment of the mayor and the board of supervisors, extraordinary economic conditions actually exist due to unemployment, fire, earthquake, flood or other calamity, which adversely affect the life, health and welfare of the citizens of the city and county or of any considerable portion thereof, the board of supervisors, by a three-fourths vote of all of its members, with the concurrence of the mayor, shall have power as follows, to-wit:

(a) To officially declare that a public emergency exists, and to fix the approximate anticipated time during which said emergency shall continue, provided that no such emergency shall be anticipated to continue beyond the end of the fiscal year during which the same is declared, unless such emergency be declared subsequent to the first day of January of said year, in which event the said emergency may be anticipated to continue until the end of the next succeeding fiscal year.

(b) To provide that while said emergency as declared shall continue to exist there shall be deducted from the gross salaries and compensations, exclusive of pension and retirement allowances, of each officer and employee of the City and County of San Francisco, including officers and employees of the board of education, not more than the respective amounts hereinafter set forth. Said deductions shall be made on the basis of the salary and compensation rate of said several officers and employees which were in effect during the calendar month immediately preceding the month during which said emergency was declared and not reduced by this section.

If said salary and compensation deductions are not reflected in the annual budget and appropriation ordinances, as set forth in Subsection (c) of this section, the amount of said deductions shall be used for the purpose of meeting or alleviating the emergency which has been declared, or to balance any deficiency existing in the general funds of the city arising by reason of the delinquency in the payment of taxes or other revenue as compared with the anticipated revenues over the same period. Provided that where salaries or compensations are paid out of bond funds, utility funds, or other trust funds, which are not provided from the revenues of the city, all deductions made shall revert to the respective funds from which said salaries or compensations are paid.

The maximum deductions from the salary or compensation of each officer or employee heretofore referred to shall be as follows, to-wit:

(1) From the salaries or compensation of officers or employees whose gross earnings exceed $100 per month and do not exceed $120 per month, three percent of the amount of the gross monthly earnings of each of said officers or employees.

(2) From the salaries or compensations of officers or employees whose gross earnings exceed the sum of $120 per month and do not exceed the sum of $150 per month, seven percent of the gross monthly earnings of each of said officers or employees.

(3) From the salaries or compensations of officers or employees whose gross earnings exceed the sum of $150 per month, and do not exceed the sum of $185 per month, 10 percent of the gross monthly earnings of each of said officers or employees.

(4) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of $185 per month, and do not exceed the sum of $275 per month, 12-1/2 percent of the gross monthly earnings of each of said officers or employees.

(5) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of $275 per month, and do not exceed the sum of $600 per month, 15 percent of the gross monthly earnings of said officers or employees.

(6) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of $600 per month, and do not exceed the sum of $834 per month, 18 percent of the gross monthly earnings of each of said officers or employees.

(7) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of $834 per month, 20 percent of the gross monthly earnings of each of said officers or employees.

(8) Provided, however, that no more than 5-1/2 percent of the gross monthly earnings of per diem employees whose compensations are fixed on the basis of a five-day week shall be deducted from the salaries or earnings of any such employee.

Said deductions shall be made from said earnings or compensations in monthly or semi-monthly installments according to the time at which said salaries or compensations are paid; provided that where the earnings of any officer or employee are on an hourly or per diem basis deductions based on his total earnings for the month shall be deducted from the installment of said earnings paid for the last half of the month.

(c) Should any such emergency declared as herein provided be anticipated to continue into the next fiscal year following the one during which said emergency has been declared, the controller and the mayor in preparing or submitting their respective annual budget estimates shall base and estimate the net salaries and compensations to be paid at amounts not to exceed the said salaries and compensations as reduced by the above-mentioned percentages on the above-mentioned salary and compensation rates, and the annual appropriation and salary ordinance shall fix said net salaries and compensation accordingly. When any emergency is declared after the annual budget is prepared or adopted, or after the

annual appropriation or salary ordinances are enacted, and before the annual tax rate is fixed as provided by law, said budget and said appropriation and salary ordinances may be revised or reenacted, so that the deductions herein authorized to be made may be reflected in the amount of the tax levy.

(d) All of such deductions, whether made after the passing of the annual budget appropriation and salary ordinance or included therein, shall be deemed as temporary deductions from the salaries and compensations of said officers and employees, and shall be continued only during the anticipated period for which said emergency has been declared.

(e) In making the deductions herein provided for, the value of board, room and laundry or other maintenance furnished by the city and county to any officer or employee, when the same is made a part of his compensation by the civil service commission, shall be added to the monetary salary or compensation paid to said employee, and the amount of deductions from said salary or compensation shall be based on said monetary salary plus the value of said board, room and laundry or other maintenance, provided that no deduction shall be made for quarters furnished to any officer or member of the fire department.

(f) During the period that any emergency shall exist after being so determined as hereinbefore provided, the controller, with the approval of the mayor and the board of supervisors, may reallocate any unencumbered balance, or any part thereof, to the credit of any department or office exclusive of monies or appropriations made or required to be made to any bond, bond interest, bond redemption, pension, utility, or trust fund, so that the same shall be available to meet the necessities of said emergency, irrespective as to whether the amount allocated to said department or office is fixed by this charter or is the result of a tax provided by said charter to be levied for said department. Should the period during which said emergency is anticipated to exist extend beyond the end of the fiscal year in which the same was declared to exist, the mayor, with the approval of the board of supervisors, may reduce the amount of any mandatory appropriation provided to be allocated to any office or department; or may reduce the amount of any tax provided by the charter to be levied for the support or maintenance of any department or office. Provided that no such deduction in appropriation, provided by this charter to be made to any department, or in the reallocation of funds, or reduction in the amount of said tax otherwise provided to be levied to produce funds for any department, shall be greater than is necessary to reflect the deductions in salaries provided in the section to be made by reason of said emergency.

The provisions of this section shall have precedence over conflicting provisions of this charter, but nothing herein contained shall adversely affect the rights of the officers and employees as set forth in Section 8.400 (h) of the charter, during the period when no public emergency exists. Contributions by the city and county and by members of the San Francisco City and County Employees' Retirement System to, and benefits, pension payments and allowances under said retirement system, shall be calculated on the basis of gross salaries and compensations of such members in the same manner and amounts as if no deductions from said gross salaries and compensations were made under this section.

Should any emergency be declared pursuant to the provisions of this section, which, in the judgment of the board of supervisors, will necessitate deductions from the salaries of the officers and employees of the city and county, over and above the amounts herein provided for, the board of supervisors by unanimous vote of all of its members, and with the approval of the mayor may authorize a further deduction from the salaries and compensations of any of said officers and employees by increasing the maximum deductions in this section provided for, up to and including an amount not to exceed 25 percent of said respective salaries or compensations as the same existed before any deduction by authority of this section.

A8.409 DECLARATION OF POLICY

It is hereby declared to be the policy of the city and county of San Francisco that strikes by city employees are not in the public interest and that, in accordance with Government Code Section 3507(e), a method should be adopted for peacefully and equitably resolving disputes. It is the further purpose and policy of the city and county of San Francisco that the procedures herein adopted, except as otherwise provided herein, shall supersede and displace all other formulae, procedures and provisions relating to wages, hours, benefits and other terms and conditions of employment found in this charter, in the ordinances and resolutions of the city and county of San Francisco, or in the rules, regulations or actions of boards or commissions of the city and county of San Francisco.

If any officer or employee covered by this part engages in a strike as defined by section 8.346(a) of this charter against the City and County of San Francisco, said employee shall be dismissed from his or her employment pursuant to charter section 8.346.

In accordance with applicable state law, nothing herein shall be construed to restrict any legal city rights concerning direction of its work force, or consideration of the merits, necessity, or organization of any service or activity provided by the City. The City shall also have the right to determine the mission of its constituent departments, officers, boards and commissions; set standards of services to be offered to the public; and exercise control and discretion over the city's organization and operations. The City may also relieve city employees from duty due to lack of work or funds, and may determine the methods, means and personnel by which the city's operations are to be conducted.

However, the exercise of such rights does not preclude employees from utilizing the grievance procedure to process grievances regarding the practical consequences of any such actions on wages, hours, benefits or other terms and conditions of employment whenever memoranda of understanding providing a grievance procedure are in full force and effect.

It is the declared intent of the voters that the state statutes referenced in this part be those in effect on the effective date of this part.

A8.409-1 EMPLOYEES COVERED

These Sections 8.409 through 8.409-6, inclusive, shall apply to all miscellaneous officers and employees and including employees of San Francisco Unified School District and San Francisco Community College District to the extent authorized by state law. The provisions of charter sections 8.400(h), 8.401-1, and 8.407 are hereby repealed and shall be of no further force and effect. Employee organizations representing employees in classifications covered by section 8.403 and 8.404 of this Charter may elect to include those classifications within the coverage of this part as a separate bargaining unit, provided however, that the election shall not become effective without the written approval of the Mayor and Board of Supervisors. The election shall be irrevocable and such employees shall not thereafter be subject to the provisions of section 8.403 and 8.404.

Employees in classifications not represented by a recognized employee organization shall be entitled to represent themselves with the city and county over wages, hours and other terms and conditions of employment to the extent required by state law and shall not be subject to the arbitration provisions of Section 8.409-4 of this charter. The Mayor annually shall propose all forms of compensation for unrepresented employees including salaries, hours, benefits, and other terms and conditions of employment subject to approval or disapproval of the board of supervisors. Consistent with other provisions of this charter, the civil service commission may adopt rules and procedures relating to said unrepresented employees.

Except as otherwise provided by this charter the Civil Service Commission shall set the wages and benefits of all elected officials of the City and County of San Francisco as follows: wages shall be frozen for fiscal year 1994-95 and 1995-96 at the rates in effect on June 30, 1994, thereafter wages and benefits may be adjusted on July 1, of each fiscal year to reflect upward change in the CPI as of the preceding January 1; however, wage increases may not exceed 5%. Benefits of elected officials may equal but may not exceed those benefits provided to any classification of miscellaneous officers and employees as of July 1 of each fiscal year.

In addition, subject to the approval or disapproval of the Board of Supervisors, the Mayor may create, for employees designated as management, a management compensation package that recognizes and provides incentives for outstanding managerial performance contributing to increased productivity and efficiency in the work force. In formulating such a package, the Mayor shall take into account data developed in conjunction with the civil service commission regarding the terms of executive compensation in other public and private jurisdictions.

A8.409-2 INTERIM PROVISIONS

Notwithstanding the provisions of section 8.407 of this charter, from January 3, 1992 through March 31, 1992, in return for acceptance of a wage freeze for fiscal year 1991-1992, all recognized employee organizations representing classifications electing to remain within the coverage of charter sections 8.401 and 8.407 may, on a one time only basis, elect to bargain for no more than two

additional paid training or furlough days per year to be effective only in fiscal years 1992-93, 1993-94 and 1994-95, and a dental plan, in recognition of the wage freeze for 1991-92. Such bargaining shall not be subject to the impasse procedures provided herein or any other provision of the charter, ordinance, or state law.

A8.409-3 OBLIGATION TO BARGAIN IN GOOD FAITH

Notwithstanding any other ordinances, rules or regulations of the city and county of San Francisco and its departments, boards and commissions, the city and county of San Francisco, through its duly authorized representatives, and recognized employee organizations representing classifications of employees covered by this part shall have the mutual obligation to bargain in good faith on all matters within the scope of representation as defined by Government code section 3504, relating to the wages, hours, benefits and other terms and conditions of city and county employment, including the establishment of procedures for the resolution of grievances concerning the interpretation or application of any agreement, and including agreements to provide binding arbitration of discipline and discharge; provided, however that, except insofar as they affect compensation, those matters within the jurisdiction of the civil service commission which establish, implement and regulate the civil service merit system shall not be subject to bargaining under this part: the authority, purpose, definitions, administration and organization of the merit system and the civil service commission; policies, procedures and funding of the operations of the civil service commission and its staff; the establishment and maintenance of a classification plan including the classification and reclassification of positions and the allocation and reallocation of positions to the various classifications; status rights; the establishment of standards, procedures and qualifications for employment, recruitment, application, examination, selection, certification and appointment; the establishment, administration and duration of eligible lists; probationary status and the administration of probationary periods, except duration; pre-employment and fitness for duty medical examinations except for the conditions under which referrals for fitness for duty examinations will be made, and the imposition of new requirements; the designation of positions as exempt, temporary, limited tenure, part-time, seasonal or permanent; resignation with satisfactory service and reappointment; exempt entry level appointment of the handicapped; approval of payrolls; and conflict of interest. As to these matters, the Civil Service Commission shall continue to be required to meet and confer pursuant to state law.

Unless and until agreement is reached through bargaining between authorized representatives of the city and county of San Francisco and authorized representatives of recognized employee organizations for the employee classifications covered by this part, or a determination is made through the procedure set forth in section 8.409-4 hereinafter provided, no existing wages, written terms or conditions of employment, fringe benefits, or long-standing past practices for said employees shall be altered, eliminated or changed except in cases of emergency. This paragraph shall be effective only until the approval of the first memorandum of understanding with a covered employee organization or six months from the effective date of this part whichever occurs sooner.

During the term of an MOU, disputes regarding changes in wages, hours, benefits and other terms and conditions of employment shall not be subject to the impasse procedures provided in this part, but may be subject to grievance arbitration.

No bargaining unit may be included in more than one memorandum of understanding with the city and county of San Francisco. Consistent with charter sections 3.100-2 and 3.103 and subject to the prior written approval of the Human Resources Director which shall not be unreasonably withheld, appointing officers shall have the authority to negotiate agreements with recognized employee representatives. Appointing officers shall consult and coordinate such negotiations with the Human Resources Director. Such memoranda of understanding shall be restricted to non-economic items within the jurisdiction of the department appointing officer which do not conflict with a city-wide memorandum of understanding. Such memoranda of understanding shall come into full force and effect only upon approval by the mayor and thereafter by a majority vote of the board of supervisors or other appropriate governing body. Upon such approval, departmental memoranda of understanding shall be attached as appendices to the employee organization's city-wide memorandum of understanding as negotiated under this part. No memorandum of understanding negotiated pursuant to this paragraph during the term of a city-wide memorandum of understanding shall be subject to the arbitration provisions of this part until renegotiation of the employee organization's city-wide memorandum of understanding.

Agreements reached pursuant to this part by the authorized representatives for the city and county of San Francisco, on behalf of its departments, boards and commissions, and the authorized representatives of recognized employee organizations, once adopted by ordinance of the board of supervisors, shall be binding on the city and county of San Francisco, and on its departments, boards, commissions, officers and employees and on the recognized employee organizations and their successors, and all employees in classifications they represent. Except as specifically set forth in this part, said agreements shall supersede any and all other conflicting procedures, provisions and formulae contained in this charter, in the ordinances of the board of supervisors, or in the rules or regulations of the city and county of San Francisco, relating to wages, hours, or other terms and conditions of employment.

A8.409-4 IMPASSE RESOLUTION PROCEDURES

(a) Subject to Section 8.409-4(g), disputes pertaining to wages, hours, benefits or other terms and conditions of employment which remain unresolved after good faith bargaining between the city and county of San Francisco, on behalf of its departments, boards and commissions, and a recognized employee organization representing classifications of employees covered under this part shall be submitted to a three-member mediation/arbitration board ("the board") upon the declaration of an impasse either by the authorized representative of the city and county of San Francisco or by the authorized representative of the recognized employee organization involved in the dispute; provided, however, that the arbitration procedures set forth in this part shall not be available to any employee organization that engages in a strike unless the parties mutually agree to engage in arbitration

under this section. Should any employee organization engage in a strike either during or after the completion of negotiations and impasse procedures, the arbitration procedure shall cease immediately and no further impasse resolution procedures shall be required.

(b) Not later than January 20 of any year in which bargaining on an MOU takes place, representatives designated by the city and county of San Francisco and representatives of the recognized employee organization involved in bargaining pursuant to this part shall each select and appoint one person to the board. The third member of the board shall be selected by agreement between the city and county of San Francisco and the recognized employee organization, and shall serve as the neutral chairperson of the board.

In the event that the city and county of San Francisco and the recognized employee organization involved in bargaining cannot agree upon the selection of the chairperson within ten (10) days after the selection of the city and county and employee organization members of the board, either party may then request the American Arbitration Association or California State Mediation Service to provide a list of the seven (7) persons who are qualified and experienced as labor interest arbitrators. If the city and county and the employee organization cannot agree within three (3) days after receipt of such list on one of the seven (7) persons to act as the chairperson, they shall randomly determine which party strikes first, and shall alternately strike names from the list of nominees until one name remains and that person shall then become the chairperson of the board.

(c) Any proceeding convened pursuant to this section shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The board may hold public hearings, receive evidence from the parties and, at the request of either party, cause a transcript of the proceedings to be prepared. The board, in the exercise of its discretion, may meet privately with the parties to mediate or mediate/arbitrate the dispute. The board may also adopt other procedures designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the cost of the arbitration process.

(d) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the board shall direct each of the parties to submit, within such time limit as the board may establish, a last offer of settlement on each of the remaining issues in dispute. The board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds by a preponderance of the evidence presented during the arbitration most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to: changes in the average consumer price index for goods and services; the wages, hours, benefits and terms and conditions of employment of employees performing similar services; the wages, hours, benefits and terms and conditions of employment of other employees in the city and county of San Francisco; health and safety of employees; the financial resources of the city and county of San Francisco, including a joint report to be issued annually on the City's financial condition for the next three fiscal years from the Controller, the Mayor's budget

analyst and the budget analyst for the board of supervisors; other demands on the city and county's resources including limitations on the amount and use of revenues and expenditures; revenue projections; the power to levy taxes and raise revenue by enhancements or other means; budgetary reserves; and the city's ability to meet the costs of the decision of the arbitration board. In addition, the board shall issue written findings on each and every one of the above factors as they may be applicable to each and every issue determined in the award. Compliance with the above provisions shall be mandatory.

(e) To be effective the beginning of the next succeeding fiscal year, an agreement shall be reached or the board shall reach a final decision no later than sixty days before the date the Mayor is required to submit a budget to the board of supervisors, except by mutual agreement of the parties. After reaching a decision, the board shall serve by certified mail or by hand delivery a true copy of its decision to the parties. The decision and findings of the arbitration board shall not be publicly disclosed until ten (10) days after it is delivered to the parties. During that ten (10) day period the parties shall meet privately, attempt to resolve their differences, and by mutual agreement amend or modify the decision and findings of the arbitration board. At the conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision and findings of the arbitration board, as it may be modified or amended by the parties, shall be publicly disclosed for a period of fourteen (14) days after which time the decision shall be final and binding. Except as otherwise provided by this part, the arbitration decision shall supersede any and all other relevant formulae, procedures and provisions of this charter relating to wages, hours, benefits and terms and conditions of employment, and it shall be final and binding on the parties to the dispute. However, the decision of the board may be judicially challenged by either party.

Thereafter, the city and county of San Francisco, its designated officers, employees and representatives and the recognized employee organization involved in the dispute shall take whatever action necessary to carry out and effectuate the final decision.

(f) The expenses of any proceedings convened pursuant to this part, including the fee for the services of the chairperson of the board, the costs of preparation of the transcript of the proceedings and other costs related to the conduct of the proceedings, as determined by the board, shall be borne equally by the parties. All other expenses which the parties may incur are to be borne by the party incurring such expenses.

(g) The impasse resolution procedures set forth in Section 8.409-4, or in any other provision of the charter, ordinance or state law shall not apply to any rule, policy, procedure, order or practice which relates or pertains to the purpose, goals or requirements of a consent decree, or which is necessary to ensure compliance with federal, state or local laws, ordinances or regulations. In the event the city acts on a matter it has determined relates to or pertains to a consent decree, or in the event the city acts to ensure compliance with federal, state, or local laws, ordinances or regulations, and the affected employee organization disputes said determination, that determination or action shall not be subject to arbitration, but may be challenged in a court of competent jurisdiction.

(h) The impasse resolution procedures set forth in section 8.409-4, or in any other section of the charter, shall not apply to any proposal pertaining to the right to strike.

(i) Charter sections 8.590-1 through 8.590-7 shall remain in full force and effect; provided, however, that the wages and other economic benefits and compensation of all classifications of employees covered by these sections shall be frozen for fiscal year 1995-96 at the rates in effect on June 30, 1995, except that wages and other economic benefits and compensation of all classifications of Airport Police shall be frozen for the fiscal year following expiration of the Memorandum of Understanding covering those classifications in effect on the effective date of this amendment.

(j) Subject to the election provisions of section 8.409-1, Charter sections 8.403 and 8.404 shall remain in full force and effect; provided, however, that the wages and other economic benefits and compensation of all classifications of employees covered by section 8.404 shall be frozen for fiscal year 1995-96 at the rates in effect on June 30, 1995.

A8.409-5 RETIREMENT BENEFITS

Notwithstanding any other provision of this part, retirement and death allowances shall continue to be set and adjusted pursuant to Chapter Five of this Article.

However, death benefits and survivor allowances, retirement allowances, adjustments to retirement allowances and adjustments to continuant allowances payable by the retirement system and based on fiscal year 1991-1992 wages and salaries covered by charter section 8.407, shall be calculated for all employees covered by charter sections 8.401 and 8.407 based on the rates certified by the civil service commission to the board of supervisors as though the 1991-1992 salary standardization ordinance vetoed by the mayor had become law. No such payment shall exceed the maximum amount permitted by Section 415 of the Internal Revenue Code of 1986, as amended from time to time, or the maximum amount which would still permit the retirement system to preserve its tax-qualified status under Section 401 of the Internal Revenue Code of 1986, as amended from time to time.

A8.409-6 EMPLOYEE RELATIONS RULES

Within sixty (60) days of adoption of this amendment, the Mayor shall appoint a panel which after consultation with all parties of interest, shall review the current employee relations ordinance and make recommendations to the Board of Supervisors for such changes as may be necessary to effectuate the purposes of this part.

Such changes shall include the creation of an employee relations board. The duties of the employee relations board shall include hearing and making determinations concerning unfair labor practice charges, disputes regarding representation matters, and unit determinations.

A8.425 PERSONS COVERED

Each plan may make provision for the participation in the benefits of the system by the dependents of members, retired city and county employees, temporary city and county employees, such other dependents of deceased and retired city and county employees as the board of supervisors may authorize by ordinance, teachers and other employees of the San Francisco Unified School District retired under the San Francisco City and County Employees' Retirement System and resigned employees of the city and county and resigned teachers and employees of the school district whose resignations occur after June 15, 1955, and within 30 days immediately prior to the date on which, but for their resignations, they would have become retired members of the said retirement system, on whose relinquishment of retirement allowances as permitted by the charter occurs after such date and resigned employees of the San Francisco Unified School District not otherwise included. A resigned employee or teacher is one whose employment has terminated other than by retirement, discharge or death or who has relinquished retirement allowances. The purpose of empowering the health service board to make provision for the participation in the benefits of the system to the aforementioned resigned teachers and employees of the San Francisco Unified School District is to enable them, subject to the health service board's exercise of its power, to participate in the benefits of the system after transferring to the State Teachers' Retirement System from the San Francisco City and County Employees' Retirement System. The purpose of empowering the health service board to make provision for participation in the benefits of the system by the aforementioned resigned employees of the city and county and other resigned employees of San Francisco Unified School District is to permit the health service board to have power to treat them the same as it treats resigned teachers and employees of the San Francisco Unified School District.

As used in this section, and for the purpose of this section, the terms "city and county employees" and "employees of the city and county" shall include officers and employees of the Parking Authority of the City and County of San Francisco.

In addition to "the average contributions" in Subsection (b) of Section A8.428, the board of supervisors may provide by ordinance for additional funds from the city and county to pay the full cost of any plan for medical benefits adopted under Sections A8.422 or A8.423 for current members of the board of supervisors. The board of supervisors may also provide by ordinance for the continuation in any plan by former supervisors who agree to and do pay the full cost of such benefit. (Amended March 2000)

A8.428 HEALTH SERVICE SYSTEM FUND

There is hereby created a health service system fund. The costs of the health service system shall be borne by the members of the system and retired persons, the City and County of San Francisco because of its members and retired persons and because of the members and retired persons of the Parking Authority of the City and County of San Francisco, the San Francisco Unified School District because of its members and retired persons and the San Francisco Community College District because of its members and retired persons. A retired person as

used in this section means a former member of the health service system retired under the San Francisco City and County Employees' Retirement System, and the surviving spouse of an active employee and the surviving spouse of a retired employee, provided that the surviving spouse and the active or retired employee have been married for a period of at least one year prior to the death of the active or retired employee.

The city and county, the school district and the community college district shall each contribute to the health service fund amounts sufficient for the following purposes, and subject to the following limitations:

(a) All funds necessary to efficiently administer the health service system.

(b) For the fiscal year commencing July 1, 1973, the city and county, the school district and the community college district shall contribute to the health service system fund with respect to each of their members an amount equal to one-half of "the average contribution," as certified by the health service board in accordance with the provisions of Section 8.423. For the fiscal year commencing July 1, 1974, and each fiscal year thereafter, the city and county, the school district and the community college district shall contribute to the health service system fund with respect to each of their members an amount equal to "the average contribution," as certified by the health service board in accordance with the provisions of Section 8.423.

(c) Monthly contributions required from retired persons and the surviving spouses of active employees and retired persons participating in the system shall be equal to the monthly contributions required from members in the system, except that the total contributions required from retired persons who are also covered under Medicare shall be reduced by an amount equal to the amount contributed monthly by such persons to Medicare; provided, however, that for the fiscal year commencing July 1, 1973, and for each fiscal year thereafter, the city and county, the school district and the community college district shall contribute funds sufficient to defray the difference in cost to the system in providing the same health coverage to retired persons and the surviving spouses of active employees and retired persons as is provided for active employee members.

(d) The city and county, the San Francisco Unified School District and the San Francisco Community College District shall not contribute to the health service system fund any sums, except as hereinbefore set forth, on account of participation in the benefits of the system by members' dependents, except surviving spouses, retired persons' dependents, except surviving spouses, persons who retired and elected not to receive benefits from San Francisco City and County Employees' Retirement System and resigned employees and teachers defined in Section 8.425, and any employee whose compensation is fixed in accordance with Sections 8.401, 8.403, or 8.404 of this charter and whose compensation therein includes an additional amount for health and welfare benefits or whose health service costs are reimbursed through any fund established for said purpose by ordinance of the board of supervisors.

It shall be the duty of the board of supervisors, the board of education and the governing board of the community college district annually to appropriate to the health service system fund such amounts as are necessary to cover the respective

obligations of the city and county, the San Francisco Unified School District and the San Francisco Community College District hereby imposed. Contributions to the health service system fund of the city and county, of the school district and of the community college district shall be charged against the general fund or the school, utility, bond or other special fund concerned.

The amendments of this section contained in the proposition therefor submitted to the electorate on November 6, 1984, shall be effective July 1, 1985.

A8.440 ANNUAL VACATIONS OF EMPLOYEES

(a) Every person employed in the city and county service shall be allowed a vacation with pay annually, as long as he continues in his employment, as follows:

(1) After one year's continuous service, 10 working days.

(2) After five years' continuous service, 15 working days.

(3) After 15 years' continuous service, 20 working days.

(b) Employees may elect not to take their entire vacation in any one year and in such event may accumulate the days allowable and not taken for use at some future time, provided, however, that no employee may accumulate unused vacation allowance in excess of 30 working days regardless of length of service.

(c) In computing vacation pay, no employee shall be considered to work more than five days each week. Vacation pay for employees working less than a five-day week shall be computed proportionately.

(d) If a holiday occurs during such employee's vacation, and the employee would as a matter of law have been entitled to said day as a regular day off, such holiday shall not be considered a day of vacation chargeable to the employee's vacation allowance.

(e) The time when vacations are to be taken shall be at the convenience of the principal executive, with due regard for seniority.

(f) An employee with one year or more of service who ceases to be employed by the city and county and who has neither received nor waived his current annual vacation allowance shall receive a pro-rata payment for all service performed since January 1 of the calendar year in which he ceases to be employed, together with an amount equivalent to any accumulated vacation allowances due him.

(g) The board of supervisors shall enact any and all ordinances necessary to administer, interpret and regulate the provisions of Subsections (a) through (f) of this section.

(h) Every employee of the City and County of San Francisco whose rate of compensation is fixed pursuant to the provisions of Sections 8.403 and 8.404 of this charter shall be entitled to receive an annual vacation at the time, with the pay and of the duration specified in this section and no section of the charter nor any provision of any collective bargaining agreement nor any street railway or bus wage schedule shall be construed in any manner or for any purpose to increase, reduce or otherwise affect the time or duration of, or pay for, vacations provided by this section nor shall any employee be deemed to have any vacation rights other than or in excess of the vacation rights specified in this section.

(i) The vacation rights granted by this section, or contained in any collective bargaining agreements, or in any street railway or bus wage schedules, as any of said terms are referred to in Sections 8.403 and 8.404 of this charter, shall in no way increase, reduce or otherwise affect or be deemed to affect the wage or pay rate or schedule determinations made pursuant to the provisions of said Sections 8.403 and 8.404.

A8.441 AUTHORIZATION TO TRANSFER VACATION CREDITS

(a) Employees of the City and County of San Francisco may transfer their vested vacation allowance credits to other employees of the City and County of San Francisco who have been determined to be catastrophically ill by the employee's head of department, in accord with the definition of catastrophic illness to be provided by the Health Commission, and who have exhausted their vacation allowance, sick leave and compensatory time off, provided that such transfer may be made only in compliance with the terms and conditions established by the board of supervisors.

By ordinance, the Board of Supervisors may extend such vacation credit transfer rights to City employees for use as family leave to care for catastrophically-ill spouses, domestic partners or other dependents as defined in the Internal Revenue Code (26 U.S.C. sec. 152), as amended from time to time.

(b) The board of supervisors is hereby empowered to enact any and all ordinances necessary to administer, interpret and regulate the provisions of this section. (Amended November 1999)

A8.450 MUNICIPAL RAILWAY

Persons employed as platform men or bus operators in the operating department of the municipal railway system shall be subject to the following conditions of employment: The basic hours of labor shall be eight hours, to be completed within 10 consecutive hours, and there shall be two days off, consecutive where practicable, in each week. All labor performed in excess of eight hours in any one day, or after a spread of 10 consecutive hours in any one day, or five days in any one week, shall be paid for at the rate of time and one-half.

Conductors and motormen may be assigned to duty as bus operators and while assigned to such duty they shall receive the compensation fixed for such service. Such assignment shall be governed by seniority of service, subject to a qualifying test by the railroad management as to competency and to state laws as to qualifications and licensing.

A8.451 POLICE DEPARTMENT

(a) The word "member" or "members" as used in this section shall mean the members in the police department set forth in Section 3.531 of this charter.

(b) The basic week of service for each member shall be 40 hours and the annual compensation set forth in Section 3.531 of this charter shall be based upon said basic week of service.

(c) Each member shall be entitled to at least two days off during each week, except as hereinafter provided.

(d) Whenever in the judgment of the chief of police public interest or

necessity requires the services of any member to serve in excess of the basic week of service during any week, the chief of police may permit said service, and said member shall be compensated therefor or shall receive equivalent time credited to him in lieu thereof in accordance with this subsection. For service performed in excess of the basic week, member shall, as requested by the member, be compensated on the basis of time and one-half in accordance with the ratio which said excess service bears to the basic week of service and the annual compensation provided therefor in Section 3.531 or in lieu thereof equivalent time off duty with pay at the rate of time and one-half.

(e) Nothing contained in this section shall be deemed to interfere with a vacation, as provided for in Section 8.440 of this charter, or the normal days off per week; provided, however, that when in the judgment of the chief of police public interest or necessity requires the services of any member to serve on his vacation, or part thereof, or normal days off, the chief of police may permit said member to serve during said vacation, or part thereof, or normal days off and he shall receive additional compensation for the period so served. Said additional compensation shall be computed on the basis of time and one-half in accordance with the ratio which said extra service performed bears to the basic week of service and the annual compensation provided therefor in Section 3.351.

(f) Nothing in this section shall abridge or limit in any way the provisions of Section 301, Part 1, of the San Francisco Municipal Code, approving Rule 32 of the civil service commission, insofar as sick leave and disability leaves for members are concerned.

(g) Whenever in the judgment of the police commission the efficient performance of police duty requires that one or more members of the police department should report for roll call, orders, and assignment, prior to going on duty, the said commission may designate a period not to exceed 15 minutes in any one day for said reporting, and the said periods of 15 minutes need not be compensated for in money or in time off with pay.

(h) Notwithstanding the provisions of any of the foregoing subsections, the members of the police department shall be entitled to the days declared to be holidays for employees whose compensations are fixed on a monthly basis in the schedules of compensations adopted by the board of supervisors pursuant to the provisions of Section 8.401 of the charter as additional days off with pay. Members shall be compensated on the basis of time and one-half as herein computed or shall be granted equivalent time off duty with pay at the rate of time and one-half as requested by the member.

(i) The provisions of this section changing compensation for service in excess of the basic week of service from straight time compensation and equivalent time off duty with pay to time and one-half for compensation and for time off duty with pay shall be effective on and after July 1, 1983.

(j) Any member who actually performs services between the hours of 5:00 p.m. and 7:00 a.m. shall be entitled to an additional 6.25 percent of the compensation otherwise payable for base pay therefor for all such hours worked; provided, however, that such additional compensation shall not be included for purposes of retirement benefit calculation or contributions provided elsewhere in this

charter.

The provisions of this subsection shall become effective in the manner provided by law, but in no event prior to July 1, 1984.

A8.452 FIRE DEPARTMENT

The chief of department shall recommend and the fire commission shall provide by rule for work schedules or tours of duty for the officers and members occupying the several ranks of the fire department; provided, however, that the normal work week determined on an annual basis for such officers and members shall not exceed 48.7 hours. All tours of duty established for officers and members assigned to the fire fighting companies and fire fighting units excepting the arson investigation unit, shall start at eight o'clock A.M. No such officer or member shall be required to work more than twenty-four consecutive hours except in a case of conflagration, disaster, or sudden and unexpected emergency of a temporary nature requiring the services of more than the available on-duty officers and members of the uniformed force of the department. Officers and members may exchange watches with permission of the chief of department and time worked on such exchange of watches shall not be construed as time in violation of the limitation of 48.7 hours in any normal work week nor 24 consecutive hours. Each such officer and each such member shall be entitled to at least one (1) day off duty during each week.

When, in the judgment of the chief of department, it is in the public interest that any such officer or member shall work on his day off and said officer or member consents to so work, he may at the direction of the chief of department work on said day off, and in addition to the regular compensation provided for said officer or member as set forth in the Charter, said officer or member shall, as requested by the officer or member, be entitled to be compensated at the rate of time and one-half his regular rate of pay as provided for herein for said extra time served, or he shall be allowed the equivalent time off at the rate of time and one-half.

In any computation in the administration of the San Francisco City and County Employees' Retirement System in which the compensation, as defined in any provisions relating to the retirement system, is a factor, compensation for overtime provided for in this section shall be excluded, and no such overtime compensation shall be deemed as compensation for any purpose relating to such retirement provisions.

Officers and members of the uniformed force shall be entitled to the days declared to be holidays for employees whose compensation are fixed on a monthly basis in the schedule of compensation adopted by the board of supervisors, pursuant to the provisions of Section 8.401 of the charter, as additional days off with pay. Officers or members shall be compensated for said days on the basis of time and one-half as herein computed or shall be granted equivalent time off duty with pay at the rate of time and one-half, as requested by the officer or member.

For payroll purposes, that portion of each tour of duty which falls within each calendar day shall constitute a single tour of duty. The rate of compensation or equivalent time off as provided for in this section, shall be calculated by dividing the annual rates of pay for each fiscal year by two-thirds (2/3) number of single

tours of duty as scheduled for the several ranks in the fire fighting companies in said fiscal year.

A8.500-1 RECIPROCAL PENSION BENEFITS WITHIN THE RETIREMENT SYSTEM AND WITH OTHER PUBLIC PENSION PLANS

Subject to the provisions of Section 8.500, the board of supervisors shall have the power to enact ordinances to establish reciprocal agreements with the Public Employees' Retirement System and other public agencies maintaining independent retirement systems for the purpose of extending reciprocal benefits to members of such systems as provided by state law. The board of supervisors and the retirement board shall have the power to perform all acts necessary to carry out the terms and purposes of such agreements.

Subject to the provisions of Section 8.500, the board of supervisors is further empowered to enact ordinances necessary to extend reciprocal rights to members who transfer between Charter Sections 8.509, 8.559, 8.584, 8.585, 8.586, 8.588 provided that service under Sections 8.509 and 8.584 shall be used for qualification purposes only and not to calculate benefits under Sections 8.559, 8.585, 8.586 and 8.588. With the exception of those members who transferred pursuant to Charter Sections 8.559-14 and 8.585-14, no ordinance enacted under this section shall extend reciprocal rights to any member who transferred from Charter section 8.559 or 8.585 to Charter section 8.509, 8.584, 8.586 or 8.588, before April 1, 1993. No ordinance enacted under this section shall extend reciprocal rights to any person who terminated his or her membership in the retirement system or retired before April 1, 1993. Subject to the above, reciprocal benefits under this paragraph shall be consistent with interpretations that have been made relative to the reciprocal benefit provisions of the Public Employees' Retirement System and 1937 County Employees' Retirement Act which this paragraph is intended to implement. The reciprocal benefits under this section will be limited by Section 415 of the Internal Revenue Code of 1986, as amended from time to time, and no reciprocal benefits will be effective if they have an adverse impact on the tax qualified status of the retirement system under Section 401 of the Internal Revenue Code of 1986, as amended from time to time. (Amended November 1999)

A8.502 RETIREMENT OF ELECTIVE OFFICERS

Elective officers, including members of the Board of Supervisors in office on and after July 1, 2000, but excepting members of all other boards and commissions and any elective officers who are members of the Public Employees' Retirement System, shall be members of the San Francisco City and County Employees' Retirement System under the miscellaneous plan in effect on the date such officer assumes office. Time during which said members have rendered service as elective officers shall be included under Subsection (g) of Section A8.509, Section A8.584-7 or the miscellaneous plan in effect on the date such officer assumes office, in addition to other time now so included. Contributions required to provide benefits based on service rendered as an elective officer prior to the effective date of membership in the retirement system, shall be paid to the retirement system in a manner consistent with contributions required of miscellaneous members for

temporary service as provided in this charter and the administrative code. (Amended March 2000)

A8.559-1 DEFINITIONS

The following words and phrases as used in this section, Section 8.559 and Sections 8.559-2 through 8.559-13, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

For retirement purposes, any increase in compensation attached to a rank which is based solely upon the possession of a POST certificate, compared to the equivalent rank without a POST certificate, shall be subject to the following limitations:

(a) for possession of the intermediate POST certificate, no more than 4% shall be included in compensation,

(b) for possession of the advanced POST certificate, no more than an additional 2% over the maximum provided in subsection (a), above, shall be included in compensation,

These limits shall apply to any pay increments which are solely attributable to the possession of a POST certificate, including but not limited to premiums or special ranks which may be established in the future and which are solely attributable to the possession of a POST certificate.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the police department, he or she was in the rank or position first held by him or her in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his or her retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such

member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he or she held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his or her duty, "final compensation," as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he receives such injury to the rank or position held by such member on that date. For purposes of calculation of final compensation, any increase in pay solely attributable to possession of a POST certificate shall be included only if the member possesses the qualifying POST certificate for a period of not less than four (4) years prior to his or her retirement date; provided, however, that should a member possess the qualifying POST certificate for a period of time less than four (4) years prior to retirement, final compensation shall be calculated based upon the monthly compensation in the next lower rank not requiring possession of the qualifying POST certificate.

For the purpose of Sections 8.559 through 8.559-13, the terms "member of the police department," "member of the department," or "member" shall mean any officer or employee of the police department, excluding such officers and employees as are members of the retirement system under Section 8.565 or Section 8.568 of the charter, who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department, and said terms further shall mean, from the effective date of their employment in said department, persons employed on July 1, 1975, regardless of age, or employed after said date at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties now performed under the titles of criminologist, photographer, police patrol driver, police motor boat operator, woman protective officer, police woman or jail matron.

Any police service performed by such members of the police department outside the limits of the city and county and under orders of a superior officer or any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter. "Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Amended November 1998)

A8.559-14 RIGHT TO TRANSFER

Notwithstanding any provisions of this charter to the contrary, any person who, on or after January 1, 1981, is a member of the Police Department, and is a member of the Retirement System under Charter Section 8.559, may become a member of the Retirement System under Charter Section 8.586 by filing in writing with the Retirement System no later than December 31, 1981, an executed waiver of all benefits which might inure to him under Charter Section 8.559. This waiver must be without right of revocation and on a form furnished by the retirement system. The Retirement Board may require that this waiver be executed by additional persons before it becomes operative.

This transfer will be effective July 1, 1980. Those persons so electing to become members under Charter Section 8.586 shall receive service credit under Charter Section 8.586 equal to their service credit under Charter Section 8.559 as of June 30, 1980.

Those persons so electing to become members under Charter Section 8.586 shall not be subject to any of those provisions of Charter Section 8.559 as of July 1, 1980.

Notwithstanding the provisions of Charter Section 8.526, the cost of living adjustment in any given year prior to January 1, 2000 for those persons electing this transfer to Charter Section 8.586 shall not exceed the provisions of Charter Section 8.526 as they existed on July 1, 1980.

Those persons so electing to transfer membership from Charter Section 8.559 to Charter Section 8.586 shall receive a monetary consideration not to exceed $40,000 calculated at the rate of $2,500 for each year of said service credit up to ten years and then at the rate of $1000 for each additional year of said service credit. This monetary consideration shall be paid from said member's contribution account including any interest thereon. When said member's contribution account is depleted, the balance shall be paid from the city and county contributions held by the retirement system.

This consideration shall be payable January 1, 1982. Alternatively, an employee may elect to receive payments according to a schedule established by the Retirement Board.

Notwithstanding any other charter or ordinance provisions, a member transferring pursuant to this section shall be eligible to receive any benefits payable because of an increase in benefits approved by the voters for other members under Charter Section 8.586, provided, however, that said member repays with interest the monetary consideration he or she received in making this transfer, offset by the amount of said member's own account in the Retirement System under Charter Section 8.559. Interest on the repayment amount shall be charged at the rate credited to member accounts from January 1, 1981 until repayment or effective date of retirement. Members shall have the option of making said repayment either through a lump-sum payment, payroll deduction or through an actuarial offset against any benefits payable because of an increase in benefits subsequent to July 1, 1980.

The amendments to this section contained in the proposition submitted to the electorate on November 2, 1999 shall apply only to active and retired members on

November 2, 1999 and constitute a prospective increase in benefits to such members subject to repayment in accordance with the provisions of the preceding paragraph. Upon repayment, retirees shall have their benefits recalculated under Charter Section 8.586 as in force at the date of their retirement. These recalculated benefits shall be first payable on and after November 2, 1999. No retired member shall become eligible under said amendments for any retroactive payments. Notwithstanding the preceding sentences, the provisions in Charter Section 8.586-3 for recalculation on the date upon which said member would have qualified for service retirement ("QSR") shall use the provisions of Charter Section 8.586 at QSR. (Amended November 1999)

A8.585-14 RIGHT TO TRANSFER

Notwithstanding any provisions of this charter to the contrary, any person who, on or after January 1, 1981, is a member of the Fire Department, and is a member of the Retirement System under Charter Section 8.585, may become a member of the Retirement System under Charter Section 8.588 by filing in writing with the Retirement System no later than December 31, 1981, an executed waiver of all benefits which might inure to him under Charter Section 8.585. This waiver must be without right of revocation and on a form furnished by the Retirement System. The Retirement Board may require that this waiver be executed by additional parties before it becomes operative.

This transfer will be effective July 1, 1980. Those persons so electing to become members under Charter Section 8.588 shall receive service credit under Charter Section 8.588 equal to their service credit under Charter Section 8.585 as of June 30, 1980.

Those persons so electing to become members under Charter Section 8.588 shall not be subject to any of those provisions of Charter Section 8.585 as of July 1, 1980.

Notwithstanding the provisions of Charter Section 8.526, the cost of living adjustment in any given year prior to January 1, 2000 for those persons electing this transfer to Charter Section 8.588 shall not exceed the provisions of Charter Section 8.526 as they existed on July 1, 1980.

Those persons so electing to transfer membership from Charter Section 8.585 to Charter Section 8.588 shall receive a monetary consideration not to exceed $40,000 calculated at the rate of $2,500 for each year of said service credit up to 10 years and then at the rate of $1000 for each additional year of said service credit. This monetary consideration shall be paid from said member's contribution account including any interest thereon. When said member's contribution account is depleted, the balance shall be paid from the city and county contributions held by the Retirement System.

This consideration shall be payable January 1, 1982. Alternatively, an employee may elect to receive payments according to a schedule established by the Retirement Board.

Notwithstanding any other charter or ordinance provisions, a member transferring pursuant to this section shall be eligible to receive any benefits payable because of an increase in benefits approved by the voters for other members under

Charter Section 8.588, provided, however, that said member repays with interest the monetary consideration he or she received in making this transfer, offset by the amount of said member's own account in the Retirement System under Charter Section 8.585. Interest on the repayment amount shall be charged at the rate credited to member accounts from January 1, 1981 until repayment or effective date of retirement. Members shall have the option of making said repayment either through a lump-sum payment, payroll deduction or through an actuarial offset against any benefits payable because of any increase in benefits subsequent to July 1, 1980.

The amendments to this section contained in the proposition submitted to the electorate on November 2, 1999 shall apply only to active and retired members on November 2, 1999 and constitute a prospective increase in benefits to such members subject to repayment in accordance with the provisions of the preceding paragraph. Upon repayment, retirees shall have their benefits recalculated under Charter Section 8.588 as in force at the date of their retirement. These recalculated benefits shall be first payable on and after November 2, 1999. No retired member shall become eligible under said amendments for any retroactive payments. Notwithstanding the preceding sentences, the provisions in Charter Section 8.588-3 for recalculation on the date upon which said member would have qualified for service retirement ("QSR") shall use the provisions of Charter Section 8.588 at QSR. (Amended November 1999)

A8.586-1 DEFINITIONS

The following words and phrases as used in this section, Section 8.586 and Sections 8.586-2 through 8.586-14, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

Subject to the requirement that it be payable in cash and that overtime be excluded, "compensation" for pension purposes may be defined in a collective bargaining agreement. Provided, however, that for retirement purposes, any increase in compensation attached to a rank which is based solely upon the possession of a POST certificate, compared to the equivalent rank without a POST certificate, shall be subject to the following limitations:

a) for possession of the intermediate POST certificate, no more than 4% shall be included in compensation,
b) for possession of the advanced POST certificate, no more than an additional 2% over the maximum provided in subsection (a), above, shall be included in compensation,

These limits shall apply to any pay increments which are solely attributable to the possession of a POST certificate, including but not limited to premiums or special ranks which may be established in the future and which are solely attributable to the possession of a POST certificate.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the police department, he or she was in the rank or position first held by him or her in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the average monthly compensation earnable by a member during any one year of credited service in which his or her average compensation is the highest.

For purposes of calculation of final compensation, any increase in pay solely attributable to possession of a POST certificate shall be included only if the member possesses the qualifying POST certificate for a period of not less than four (4) years prior to his or her retirement date; provided, however, that should a member possess the qualifying POST certificate for a period of time less than four (4) years prior to retirement, final compensation shall be calculated based upon the monthly compensation in the next lower rank not requiring possession of the qualifying POST certificate. For the purpose of Sections 8.586 through 8.586-14, the terms "member of the police department," "member of the department," or "member" shall mean any officer or employee of the police department employed after November 1, 1976 who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department and said terms shall further mean persons employed after November 1, 1976 at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform duties now performed under the titles of criminologist, photographer, police woman or jail matron; provided, however, that said terms shall not include any person who has not satisfactorily completed such course of training as may be required by the police department prior to assignment to active duty with said department.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter. "Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Amended November 1998)

A8.586-2 SERVICE RETIREMENT

Any member of the police department who completes at least five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section 8.586-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the sentence next preceding, shall receive a retirement allowance equal to the larger of (a) two percent of final compensation for each of the first twenty-five (25) years of service, then three percent of final compensation for each year of service rendered in excess of twenty-five (25) years or (b) the percent of final compensation (as defined in Section 8.586-1) set forth opposite his or her age at retirement, taken to the preceding completed quarter year, for each year of service, as computed under Section 8.586-10:

Retirement Age	Percent for Each Year of Credited Service
50	2.000
50.25	2.035
50.5	2.070
50.75	2.105
51	2.140
51.25	2.175
51.5	2.210
51.75	2.245
52	2.280
52.25	2.315
52.5	2.350
52.75	2.385
53	2.420
53.25	2.455
53.5	2.490
53.75	2.525
54	2.560
54.25	2.595
54.5	2.630
54.75	2.665
55	2.700

In no event, however, shall such a retirement allowance exceed seventy-five (75) percent of a member's final compensation. (Amended November 1998)

A8.586-3 RETIREMENT FOR INCAPACITY

Any member of the police department who becomes incapacitated for the performance of his or her duty by reason of any bodily injury received in, or illness caused by the performance of his or her duty, shall be retired. If he or she is not qualified for service retirement, he or she shall receive a retirement allowance in an

amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section 8.586-1, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section 8.586-1. Said allowance shall be paid to him or her until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years had he or she lived and rendered service without interruption in the rank held by him or her at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section 8.586-1, he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation.

If, at the time of retirement because of disability, he or she is qualified as to age and service for retirement under Section 8.586-2, he or she shall receive an allowance equal to the retirement allowance which he or she would receive if retired under Section 8.586-2, but not less than 50 percent of said final compensation. Any member of the police department who becomes incapacitated for performance of his or her duty by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section 8.586-10, shall be retired upon an allowance of 1-1/2 percent of the final compensation of said member as defined in Section 8.586-1 for each year of service, provided that said allowance shall not be less than 33-1/3 percent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the police commission or by said member or his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease and he or she shall be restored to the service in the rank he or she occupied at the time of his or her retirement. (Amended November 1998)

A8.586-4 DEATH ALLOWANCE

If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his or her duty, a death allowance, in lieu of any allowance, payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but he or she had not retired, the allowance payable shall be equal to three-fourths of the retirement allowance which the member would have received if he or she had

been retired for service on the date of death, but such allowance shall not be less than 50 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, had he or she lived and rendered service without interruption in the rank held by him or her at death, and after said date the allowance payable shall be equal to three-fourths of the retirement allowance said member would have received if retired for service on said date, based on the final compensation he or she would have received prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation. If he or she had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to three-fourths of the retirement allowance of the member, except that if he or she was a member under Section 8.586 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be adjusted upon the date at which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died.

If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under the age of 18 years, but leave a parent or parents dependent upon him or her for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death. (Amended November 1998)

A8.586-5 PAYMENT TO SURVIVING DEPENDENTS

Upon the death of a member of the police department resulting from any cause other than an injury received in, or illness caused by performance of duty,

(a) if the death occurred after qualification for service retirement under Section 8.586

2, or after retirement service or because of disability which result from any cause other than an injury received in, or illness caused by performance of duty one-half of the retirement allowance to which the member would have been entitled if he or she had retired for service at the date of death or one-half of the retirement allowance as it was at his or her death, as the case may be, shall be continued through out his or her life or until remarriage to his surviving wife, or

(b) if his or her death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, one-half of the retirement allowance to which he or she would have been entitled under Section 8.586-2 if he or she had attained the age of 50 years on the date of his or her death shall be continued throughout life or until remarriage to his surviving wife, or

(c) if his or her death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, three-fourths of his or her retirement allowance as it was at his or her death shall be continued throughout life or until remarriage to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date on which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died, or

(d) if his or her death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section 8.586-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section 8.586-3 if he or she had retired on the date of death because of incapacity for performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children, under age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he or she had not retired, or unless she was married to the member at least one year prior to his or her retirement if he or she had retired.

As used in this section and Section 8.556-4 "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for, but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section 8.586-8, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife,

the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "qualification for service retirement" or "qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section 8.586 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section 8.586-10. (Amended November 1998)

A8.586-6 ADJUSTMENT OF ALLOWANCES

Every retirement or death allowance payable to or on account of any member under Section 8.586 shall be adjusted in accordance with the provisions of Subsection (b) of Section 8.526 of this charter. (Amended November 1998)

A8.586-7 ADJUSTMENT FOR COMPENSATION PAYMENTS

That portion of any allowance payable because of the death or retirement of any member of the police department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable by the city and county to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in, or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits. (Amended November 1998)

A8.586-8 DEATH BENEFIT

If a member of the police department shall die, before retirement from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause if no allowance shall be payable under Section 8.586-4 or 8.586-5 preceding, a death benefit shall be paid to his or her estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. (Amended November 1998)

A8.586-9 REFUNDS AND REDEPOSITS

Should any member of the police department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the

retirement system. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund the amount refunded to him or her. Should a member of the police department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the police department and he or she shall receive credit for service for which said contributions were made, according to the charter section under which his or her membership in the retirement system continues. (Amended November 1998)

A8.586-10 COMPUTATION OF SERVICE

The following time shall be included in the computation of the service to be credited to a member of the police department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his or her service while he or she was a member under any other charter section, and not redeposited upon re-entry into service:

(a) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department under Section 8.586 or 8.588, respectively.

(b) Time prior to November 2, 1976, during which said member was entitled to receive compensation while a member of the police or fire department under any other section of the charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under Section 8.586-3 for disability not resulting from injury received in or illness caused by performance of duty, time during which said member serves and receives compensation because of services rendered in other offices and departments.

(c) Time during which said member is absent from a status included in Subsection (a) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his or her account. (Amended November 1998)

A8.586-11 SOURCES OF FUNDS

All payments provided for members under Section 8.586 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) There shall be deducted from each payment of compensation made to a member under Section 8.586 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member

from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his or her estate or beneficiary as provided in Sections 8.586-8, 8.586-9 and 8.586-10.

(b) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section 8.586-11, to provide the benefits payable to members under Section 8.586. Such contributions of the city and county to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section 8.586, said percentage to the ratio of the value on November 2, 1976, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid to or on account of members under Section 8.586 from contributions of the city and county, less the amount of such contributions plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after said date, to the value on said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered year.

(c) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide benefits for members under Section 8.586, shall be a part of the fund in which all other assets of said system are included. (Amended November 1998)

A8.586-12 RIGHT TO RETIRE

Upon the completion of the years of service set forth in Section 8.586-2 as requisite to retirement, a member of the police department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.586-2, and, except as provided in the following paragraph, nothing shall deprive said member of said right.

Any member of the police department convicted of a crime involving moral turpitude committed in connection with his or her duties as a member of the police department shall, upon termination of his or her employment pursuant to the provisions of this charter, forfeit all rights to any benefits under the retirement

system except refund of his or her accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Section 8.586-2, he or she shall have the right to elect, without right of revocation and within 90 days of the termination of his or her employment, whether to withdraw all of his or her accumulated contributions or to receive as his or her sole benefit under the retirement system an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of such termination of employment. (Amended November 1998)

A8.586-13 LIMITATION ON EMPLOYMENT DURING RETIREMENT

(a) Except as provided in Section 8.511 of this charter and in Subsection (b) of this section, no person retired as a member under Section 8.586 for service or disability and entitled to receive a retirement allowance under the retirement system shall be employed in any capacity by the city and county, nor shall such person receive any payment for services rendered to the city and county after retirement.

(b)(1) Service as an election officer or juror, or in the preparation for, or giving testimony as an expert witness for or on behalf of the city and county before any court or legislative body shall be affected by the provisions of Subsection (a) of this section.

(2) The provisions of Subsection (a) shall not prevent such retired person from serving on any board or commission of the city and county and receiving the compensation for such office, provided said compensation does not exceed $100 per month.

(3) If such retired person is elected or appointed to a position or office which subjects him or her to membership in the retirement system under Section 8.586, he or she shall re-enter membership under Section 8.586 and his or her retirement allowance shall be cancelled immediately upon his/her re-entry. The provisions of Subsection (a) of this section shall not prevent such person from receiving the compensation for such position or office. The rate of contributions of such member shall be the same as that for other members under Section 8.586. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his or her annuity at the time of his or her re-entry, but the amount thereof shall not exceed the amount of his or her accumulated contributions at the time of his or her retirement. Such member shall also receive credit for his or her service as it was at the time of his or her retirement.

(c) Notwithstanding any provision of this charter to the contrary, should any person retired for disability engage in a gainful occupation prior to attaining the age of 55 years, the retirement board shall reduce that part of his or her monthly retirement allowance which is provided by contributions of the city and county to an amount which, when added to the amount of the compensation earnable, at the time he or she engages in the gainful occupation, by such person if he or she held the position which he or she held at the time of his or her retirement, or, if that position has been abolished, the compensation eamable by the member if he or she held the position from which he or she was retired immediately prior to its abolishment. (Amended November 1998)

A8.586-14 CONFLICTING CHARTER PROVISIONS

Any section or part of any section in this charter, insofar as it should conflict with the provisions of Sections 8.586 through 8.586-13 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of said sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. (Amended November 1998)

A8.586-15 VESTING

Notwithstanding any provisions of this charter to the contrary, should any member of the police department who is a member of the Retirement System under Charter Section 8.586 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement benefit, calculated at termination, defined as that proportion of the normal service retirement benefit that his or her accrued service credit bears to 25 years, payable beginning at age 50. (Amended November 1998)

A8.587 RETIREMENT—MISCELLANEOUS OFFICERS AND EMPLOYEES ON AND AFTER NOVEMBER 7, 2000

Miscellaneous officers and employees on November 7, 2000 who were members of the retirement system under Section A8.584, miscellaneous officers and employees under Section A8.584 whose accumulated contributions were in the retirement fund on November 7, 2000 and who were not retired on that date, and miscellaneous officers and employees who become members of the retirement system on and after November 7, 2000 shall be members of the retirement system subject to the provisions of Sections A8.587 through A8.587-13, in addition to such other applicable provisions including, but not limited to, A8.500 of this charter; provided that persons who become members under the Public Employees' Retirement System of the State of California or members of the State Teachers' Retirement System of the State of California shall not be members of the San Francisco City and County Employees' Retirement System and provided, further, that the retirement system shall be applied to persons employed on a part-time or temporary basis only as the board of supervisors shall determine by ordinance enacted by three-fourths vote of all members of the board. (Added November 2000)

A8.588-10 COMPUTATION OF SERVICE

The following time shall be included in the computation of the service to be credited to a member of the fire department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his or her service while he or she was a member under any other charter section, and not redeposited upon re-entry into service:

(a) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department under Section 8.586 or 8.588, respectively.

(b) Time prior to November 2, 1976, during which said member was entitled to receive compensation while a member of the police or fire department under any other section of the charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under Section 8.588-3 for disability not resulting from injury received in or illness caused by performance of duty, time during which said member serves and receives compensation because of services rendered in other offices and departments.

(c) Time during which said member earned compensation as a paramedic with the department of public health, provided that the accumulated contributions on account of such service are transferred to his or her 8.588 account or, if previously refunded, are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board. The retirement board shall require that a waiver be executed by said member so that any paramedic service covered by Section 8.588 is not also covered by other pension provisions in this charter.

(d) Time during which said member is absent from a status included in Subsection (a) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his or her account. (Amended November 1998)

A8.590-1 DECLARATION OF POLICY

It is hereby declared to be the policy of the City and County of San Francisco that strikes by firefighters, police officers and airport police officers are not legally permissible, and that a method should be adopted for peacefully and equitably resolving disputes. It is the further purpose and policy of the City and County of San Francisco that in the event the procedures herein adopted are invoked by the City and County of San Francisco or by a recognized employee organization representing firefighters, police officers or airport police officers, that they shall supersede and displace all other formulas, procedures and provisions relating to wages, hours, benefits and other terms and conditions of employment found in this Charter, in the ordinances and resolutions of the City and County of San Francisco, or in the rules, regulations or actions of boards or commissions of the City and County of San Francisco.

A8.590-2 EMPLOYEES COVERED

These sections 8.590-1 through 8.590-7, inclusive, shall apply to the several ranks of the fire department and police department as provided for in Sections 3.542 and 3.531 of this Charter, respectively, and to all of the classifications of airport police officers, jointly referred to in these sections as "firefighters," "police officers" and "airport police officers."

A8.590-3 PROHIBITION AGAINST STRIKES

If any firefighter, police officer or airport police officer employed by the City and County of San Francisco engages in a strike as defined by Section 8.346(a) of this charter against the City and County of San Francisco, said employee shall be dismissed from his or her employment pursuant to Charter Section 8.345 and 8.346.

A8.590-4 OBLIGATION TO NEGOTIATE IN GOOD FAITH

Notwithstanding any other provisions of this Charter, or of the ordinances, rules or regulations of the City and County of San Francisco and its departments, boards and commissions, the City and County of San Francisco, through its duly authorized representatives, and recognized employee organizations representing classifications of firefighters, police officers and airport police officers shall have the mutual obligation to negotiate in good faith on all matters within the scope of representation as defined by Government Code Sections 3500, et seq., relating to the wages, hours, benefits and terms and conditions of City and County employment, including the establishment of procedures for the resolution of grievances concerning the interpretation or application of any negotiated agreement. Unless and until agreement is reached through negotiations between authorized representatives of the City and County of San Francisco and the recognized employee organization for the classifications of fire department, police department and airport police employees, or a determination is made through the impartial arbitration procedure hereinafter provided, no existing benefit, term or condition of employment for said fire department, police department or airport police employees shall be altered, eliminated or changed. Agreements reached by the duly authorized representatives for the City and County of San Francisco, its departments, boards and commissions and the recognized employee organizations pursuant to this Section shall be binding on the City and County of San Francisco, and on its departments, boards, commissions, officers and employees once adopted by the board of supervisors. Said agreements shall supersede any and all other conflicting procedures, provisions and formulas contained in this Charter relating to wages, hours, benefits or terms and conditions of employment.

A8.590-5 IMPASSE RESOLUTION PROCEDURES

(a) Subject to section 8.590-5(g), disputes or controversies pertaining to wages, hours, benefits or terms and conditions of employment which remain unresolved after good faith negotiations between the City and County of San Francisco, its departments, boards and commissions and a recognized employee organization representing firefighters, police officers or airport police officers shall be submitted to a three-member board of arbitrators upon the declaration of an impasse either by the authorized representative of the City and County of San

Francisco or by the recognized employee organization involved in the dispute.

(b) Representatives designated by the City and County of San Francisco and representatives of the recognized employee organization involved in the dispute shall each select and appoint one arbitrator to the board of arbitrators within three (3) days after either party has notified the other, in writing, that it desires to proceed to arbitration. The third member of the arbitration board shall be selected by agreement between the City and County of San Francisco and the employee organization, and shall serve as the neutral arbitrator and Chairperson of the Board. In the event that the City and County of San Francisco and the recognized employee organization involved in the dispute cannot agree upon the selection of the neutral arbitrator within ten (10) days from the date that either party has notified the other that it has declared an impasse, either party may then request the State Mediation and Conciliation Service of the State of California Department of Industrial Relations to provide a list of seven (7) persons who are qualified and experienced as labor arbitrators. If the City and County and the employee organization cannot agree within three (3) days after receipt of such list on one of seven (7) persons to act as the neutral arbitrator, they shall alternately strike names from the list of nominees until one name remains and that person shall then become the neutral arbitrator and chairperson of the arbitration board.

(c) Any arbitration proceeding convened pursuant to this article shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The arbitration board shall hold public hearings, receive evidence from the parties and cause a transcript of the proceedings to be prepared. The arbitration board, in the exercise of its discretion, may meet privately with the parties, mediate or mede-arb the issues in dispute. The arbitration board may also adopt such other procedures that are designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the costs of the arbitration process.

(d) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the arbitration board shall direct each of the parties to submit, within such time limit as the arbitration board may establish, a last offer of settlement on each of the remaining issues in dispute. The arbitration board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to: changes in the average consumer price index for goods and services; the wages, hours, benefits and terms and conditions of employment of employees performing similar services; the wages, hours, benefits and terms and conditions of other employees in the City and County of San Francisco; and the formulas provided for in this Charter for the establishment and maintenance of wages, hours, benefits and terms and conditions of employment. The impartial arbitration board shall also consider the financial condition of the City and County of San Francisco and its ability to meet the costs of the decision of the arbitration board.

(e) After reaching a decision, the arbitration board shall mail or otherwise deliver a true copy of its decision to the parties. The decision of the arbitration board

shall not be publicly disclosed and shall not be binding until ten (10) days after it is delivered to the parties. During that ten (10) day period the parties shall meet privately, attempt to resolve their differences, and by mutual agreement amend or modify the decision of the arbitration board. At the conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision of the arbitration board, as it may be modified or amended by the parties, shall be publicly disclosed. Except as limited by Section 8.590-7, the arbitration decision, as it may be modified or amended by the parties, shall supersede any and all other relevant formulas, procedures and provisions of this Charter relating to wages, hours, benefits and terms and conditions of employment; and it shall be final and binding on the parties to the dispute, including the City and County of San Francisco, its commissions, departments, officers and employees. No other actions or procedural steps to confirm or approve the decision of the arbitration board shall be permitted or required; provided, however, that the City and County of San Francisco, its designated officers, employees and representatives and the recognized employee organization involved in the dispute shall take whatever action that is necessary to carry out and effectuate the decision of the arbitration board.

(f) The expenses of any arbitration proceedings convened pursuant to these Charter sections, including the fee for the services of the chairperson of the arbitration board, the costs of preparation of the transcript of the proceedings and other costs related to the conduct of the proceedings, as determined by the arbitration board, shall be borne equally by the parties. All other expenses which the parties may incur are to be borne by the party incurring such expenses.

(g) The impasse resolution procedures set forth in Section 8.590-5 shall not apply to:

1. any dispute or controversy concerning the San Francisco Police Department's crowd control policies;

2. any procedures or practices relating to the processing and disposition of complaints handled by the Office of Citizens' Complaints; or matters relating to disciplinary procedures that apply to disciplinary actions involving members of the San Francisco police department and fire department covered by these sections; or matters covered by Charter section 8.343; and

3. any rule, policy, procedure, order or practice which relates or pertains to the purpose, goals or requirements of a consent decree, or which is necessary to ensure compliance with federal, state or local anti-discrimination laws, ordinances or regulations.

In the event the City acts on a matter it has determined relates to or pertains to a consent decree, or in the event the City acts to ensure compliance with federal, state, or local anti-discrimination laws, ordinances or regulations, and the affected employee organization disputes said determination, that determination or action shall not be subject to arbitration.

A8.590-6 RETIREE BENEFIT ADJUSTMENTS

No agreement reached by the parties and no decision of the arbitration board shall reduce the vested retirement benefits of retirees or employees of the fire department, police department or of the airport police officers. Retirement and death

allowances shall continue to be set and adjusted pursuant to Chapter Five of this Article, except that the amount to which said allowances are set and adjusted shall not be less than the amount said allowances would be if the salaries of the uniformed forces in the police and fire departments continued to be set pursuant to Charter Section 8.405. Any agreement or decision of the arbitration board altering vested retirement benefits shall be subject to the written approval of the individual beneficiaries thereof.

A8.590-7 PRESERVATION OF TAX BENEFITS

(a) Sections 8.590-1 through 8.590-7, in their entirety, shall be subject to and limited by charter section 8.500 and any ordinances enacted pursuant thereto. Sections 8.590-1 through 8.590-7 shall be effective only to the extent that benefits authorized by or authorized pursuant to those sections do not have an adverse consequence on the tax treatment of benefits provided to any employee of the city and county.

(b) Any agreement reached by the parties or any decision of the arbitration board which authorizes a modification of any aspect of the retirement system or of any aspect of the provision for or delivery of retirement benefits shall not become effective until the following occur:

(1) The retirement board, acting in its fiduciary capacity, forwards to the board of supervisors certification that implementation of the modifications presents no risk to the tax-qualified status of the retirement system. Such certification shall be based upon the advice of the general manager, the actuary of the retirement system, and any outside consultants that they may in their discretion retain; and,

(2) After having received the certification referred to in the previous paragraph and after having made its own independent finding based on clear and convincing evidence that implementation of the modifications presents no risk to the tax-qualified status of the retirement system and will not increase the taxes of city and county employees, the board of supervisors, by a three-quarters vote, enacts an ordinance making the modifications effective.

(c) Costs of any outside consultants retained by the city and county pursuant to this section shall be borne equally by the city and county and by the bargaining units concerned.

APPENDIX C

ETHICS PROVISIONS*

* Citations in these appendices to other Charter sections refer to provisions of the 1932 Charter, as amended. Not all of those provisions have been carried forward under the new Charter.

C8.105 CONFLICT OF INTEREST AND OTHER PROHIBITED PRACTICES

(a) No officer or employee of the city and county shall become directly or indirectly interested in any contract, franchise, right privilege or sale or lease of property awarded, entered into or authorized by him or her in his or her capacity as an officer or employee, or by an officer or employee under his or her supervision and control, or by a board or commission of which he or she is a member, unless same is devolved upon him or her by law. An officer or employee with such an interest, however acquired, shall become divested of said interest within 60 days or shall resign said office or employment.

(b) No officer or employee shall give or promise any money or other valuable thing in consideration of his or her nomination, appointment, or election to any city and county office or employment or accept, other than lawful political campaign contributions, any gratuity in money or other valuable thing, either directly or indirectly, from any subordinate or employee or from any candidate or applicant for a position as employee or subordinate under him or her.

(c) No officer or employee shall make, participate in making or in any way attempt to use his or her office or employment to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest, as defined by California Government Code Section 87103.

(d) No officer or employee of the city and county shall willfully or knowingly disclose any privileged information concerning property, government, or affairs of the city and county, unless a duty to do so is imposed upon said person by law, nor shall that person use any privileged information obtained by him or her by virtue of his or her office or employment to advance the financial or other private interest of himself or herself or others.

(e) No person who has served as an officer or employee of the city and county shall within a period of two years after termination of such service or employment appear before the board or agency of the city and county of which he or she was a member in order to represent any private interest, provided, however, that said officer or employee may appear before said board for the purpose of representing himself or herself.

(f) No officer or employee of the city and county shall receive, directly or indirectly, any compensation, reward or gift from any source except compensation from the City and County of San Francisco, or any other governmental agency to which he or she has been duly appointed for any service, advice, assistance or other matter related to the governmental processes of the city and county, except for fees for speeches or published writing.

(g) The ethics commission with respect to officers and employees whose positions are subject to the civil service provisions of the charter other than officers

and members of the fire and police departments, the fire commission with respect to officers and members of the fire department and the police commission with respect to officers and members of the police department, are each empowered to prescribe and enforce such reasonable rules and regulations as each commission deems necessary to effectuate the purposes and intent of this section. Such rules and regulations may provide for restrictions against activities, employments and enterprises other than those described or mentioned herein when such restrictions are found necessary for the preservation of the honor or integrity of the city and county. Rules and regulations previously adopted or approved by the civil service pursuant to this section shall remain in effect until amended by the ethics commission.

The civil service commission with respect to officers and employees whose positions are subject to the civil service provisions of the charter other than officers and members of the fire and police departments, the fire commission with respect to officers and members of the fire department and the police commission with respect to officers and members of the police department, are each empowered to prescribe and enforce such reasonable rules and regulations as each commission deems necessary to provide for the efficiency of the city and county civil service.

(h) An officer or employee shall not be deemed to be interested in any transaction described in Subsections (a) or (c) above if he or she has only a remote interest in the transaction and if the fact of such interest is disclosed and noted in the official records of the board, commission or department and thereafter the board, commission or department authorizes, approves, or ratifies the transaction in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest or by his or her immediate superior unless the transaction must be awarded to the highest or lowest responsible bidder as the case may be on a particular day and the vote of such officer or member is necessary to a quorum on that day.

(1) As used in this article "remote interest" means:

(A) That of a nonsalaried officer of a nonprofit corporation;

(B) That of an employee or agent of the party involved in the transaction, if such party has 10 or more other employees and if the officer or employee was an employee or agent of said party for at least three years prior to his or her initially accepting his or her office or employment.

For the purposes of this subsection, time of employment with the party by the officer or employee shall be counted in computing the three-year period specified in this subsection even though such party has been converted from one form of business organization to a different form of business organization within three years of the initial taking of office by such officer. Time of employment in such case shall be counted only if, after the transfer or change in organization, the real or ultimate ownership of the party is the same or substantially similar to that which existed before such transfer or change in organization. For the purposes of this subsection, stockholders, bondholders, partners, or other persons holding an interest in the contracting party are regarded as having the "real or ultimate ownership" of such party.

C) That of a parent in the earnings of his or her minor child for

personal services;

D) That of a landlord or tenant of the transacting party;

E) That of an attorney of the transacting party;

F) That of a supplier of goods or services when such goods or services had been supplied to the transacting party by the officer or employee for at least five years prior to his or her election or appointment to office or employment;

G) That of an officer, director, or employee of a bank, bank holding company, or savings and loan association with which a party to the transaction has the relationship of borrower or depositor, debtor or creditor.

(2) The provisions of this subsection shall not be applicable to any officer or employee interested in a transaction who influences or attempts to influence another officer or employee to enter into the transaction.

(i) An officer or employee shall not be deemed to be interested in a transaction pursuant to Subsections (a) and (c) above if his or her interest is:

(1) The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income to him or her from dividends, including the value of stock dividends, from the corporation does not exceed five percent of his or her total annual income, and any other payments made to him or her by the corporation do not exceed five percent of his or her total annual income;

(2) That of an officer or employee in being reimbursed for his or her actual and necessary expenses incurred in the performance of official duty;

(3) That of a recipient of public services generally provided by the board, commission or department of which he or she is a member or employee, on the same terms and conditions as if he or she were not a member or employee of the board, commission or department.

(4) That of a landlord or tenant of the transacting party if such party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial, or other public district of this state or an adjoining state unless the subject matter of such transaction is the property in which such officer or employee has such interest as landlord or tenant in which event his or her interest shall be deemed a remote interest within the meaning and subject to the provisions of Subsection (g).

(5) That of a tenant in a public housing authority created pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code in which he or she serves as a member of the board of commissioners of the authority or of a community development commission created pursuant to Part 1.7 (commencing with Section 34100) of Division 24 of the Health and Safety Code.

(6) That of a spouse of an officer or employee in his or her spouse's employment or officeholding if his or her spouse's employment or officeholding has existed for at least one year prior to his or her election or appointment.

(7) That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed at the time of the first consideration of the

transaction and provided further that such interest is noted in its official records.

(8) An officer or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his or her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of a borrower or depositor, debtor or creditor.

(j) No member of any board or commission of the city and county shall knowingly vote on or in any way attempt to influence the outcome of governmental action on any measure or question involving his or her own character or conduct, his or her right as a member, or his or her appointment to any office, position, or employment, wherein the said member's financial interest is immediate, particular, and distinct from the public interest. The word "knowingly" as used in this paragraph shall mean actual or constructive knowledge of the existence of the interest which would disqualify the vote under the provisions of this section.

If under any provision of this charter or of any ordinance, resolution, rule or regulation, action on any measure or question must be taken on a particular day and such action cannot be taken by a qualified voting quorum of the board or commission on that day by reason for the disqualification from voting under the provisions of this section, said action may be postponed until, but not later than, there are sufficient qualified members present to vote and take action on said measure or question. The term "a qualified voting quorum" as used in this paragraph shall mean the presence of a sufficient number of qualified voting members of the board or commission to take either affirmative or negative action on the measure or question before the board or commission.

(k) The city attorney, the district attorney of the City and County of San Francisco or any resident or group of residents of the City and County of San Francisco may bring a suit in the superior court to compel compliance with the provisions of this section.

(l) The provisions of Section 8.105 shall not apply to any member serving as a representative of any profession, trade, business, union or association on any board, commission or other body heretofore or hereafter created by an ordinance of the City and County of San Francisco which requires that the membership consists in whole or in part of representatives of specific professions, trades, businesses, unions or associations. Conflicts of interest and prohibited practices of such members and the penalties therefor shall be as prescribed by the ordinance creating such board, commission or other body or by an amendment thereto.

(m) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, upon a final judgment of conviction of same, shall be removed from office or in the alternative shall be subject to a penalty of not more than one year in jail and/or fine of not more than $10,000, as well as removal.

(n) Every contract made in violation of any of the provisions of Section 8.105 may be avoided at the insistence of any party except the officer or employee interested therein. No such contract may be avoided because of the interest of an officer or employee therein unless such contract is made in the official capacity of such officer or employee, or by a board or body of which he or she is a member.